

1 Q. Yes, sir.

2 MR. KUHAR: If you recall.

3 A. I can recall that off the top of my head.

4 Q. Fine.

5 A. She had previous experience as a teacher in Ohio,
6 with gifted programs and that's what we hired her for,
7 gifted education, not elementary ed, gifted ed.

8 Q. Marcie Pifer, P-I-F-E-R.

9 MR. KUHAR: Hamilton Pifer.

10 MR. NICHOLS: That's her name.

11 MR. KUHAR: That's what she calls herself.

12 MR. NICHOLS: Marcie Pifer.

13 MR. KUHAR: All I have is something that says,
14 Marcie A. Hamilton Pifer. Is that whom you're
15 talking about?

16 MR. NICHOLS: I think that's close enough.

17 MR. KUHAR: And your question again is?

18 BY MR. NICHOLS:

19 Q. And the question is, Miss Pifer, based upon her
20 record has less practical experience than the plaintiff,
21 only one recommendation supported her application, and a
22 very limited background materials, what justified you hiring
23 her rather than Miss Wagner?

24 A. Because we thought she was a fantastic candidate.

25 Q. Based upon what?

1 A. Based upon the committee.

2 Q. The interview?

3 A. The previous experience --

4 Q. The interview you say?

5 MR. KUHAR: Let him finish.

6 A. Based upon many of the things I had mentioned
7 before on how we select people, what we take into
8 consideration.

9 MR. KUHAR: You can keep going.

10 Q. Do you want the elaborate --

11 A. I think I've covered that before and I don't
12 think I need to be redundant to be honest with you.

13 Q. -- With regard to Miss Pifer?

14 A. I said in the process --

15 Q. I'm talking about individuals.

16 A. You didn't ask me to individualize.

17 Q. I'm naming her. That's why I named her. I
18 called her Marcie Pifer. For each of these people I asked
19 that you be responsive if you will.

20 MR. KUHAR: You give a name and you did -- What
21 is your question?

22 BY MR. NICHOLS:

23 Q. My question again is why did you hire this person
24 over Miss Wagner?

25 MR. KUHAR: And he said basically they thought

1 she was a great candidate based on the procedure
2 he previously described.

3 THE WITNESS: Right.

4 MR. NICHOLS: All right.

5 MR. KUCHAR: I need a two minute break.

6 MR. NICHOLS: Okay, take a five minute break.

7 (At 2:25 p.m. a recess was taken and the
8 deposition resumed at 2:30 p.m.)

9 MR. KUCHAR: To be clear, Mr. Nichols --

10 MR. NICHOLS: We're back on the record, are we?

11 MR. KUCHAR: To be clear, the plaintiff is
12 entitled to ask us, ask the witnesses what they
13 remember about each hiring decision that we've
14 made, okay. So we're not disputing that. But
15 it's just a matter of the most efficient way of
16 doing that.

17 Now we are going to get you all of the
18 employee interview analysis forms that we still
19 retain. And I'm just proposing, does it make
20 sense for you to defer asking Mr. Heller or the
21 other people on the committee that you're going
22 to depose or Mr. Dolecki, who actually doesn't
23 have a lot of firsthand knowledge about a lot of
24 these, but if you're going to ask him, fine.

25 But my point is, does it make sense to defer

1 that effort until you have the employee analysis
2 interview forms? Number one, it's going to be
3 real choppy if you don't. And number two, the
4 deponent is not going to have remember anything
5 and he's going probably to be hedging and
6 probably say if I had the interview analysis
7 form I could tell you more. And aren't we going
8 to do it again --

9 MR. NICHOLS: Mr. Kuhar, I really prefer your
10 first proposal that was yesterday that you left
11 on my telephone line. And that was what you
12 suggested, you said that we could go forward
13 today, and that because we did not have the
14 benefit of the interview forms, at that time if
15 it's necessary to repeat, recall, I much prefer
16 to do that.

17 MR. KUHAR: Okay.

18 MR. NICHOLS: And the reason I prefer to do that
19 and that we've already engaged in this, I will
20 continue this line of inquiry with Mr. Heller.
21 And to the extent that he can testify on his
22 knowledge, of course, and facts, fine. If he
23 doesn't know, he can say so for the record.
24 That's all.

25 MR. KUHAR: Or if he knows part of the reason.

1 MR. NICHOLS: Yeah, to the extent that he can
2 testify factually.

3 MR. KUHAR: Fine. But to be clear, in my phone
4 message did I not advocate one versus the other.
5 I said you have two options. Don't misrepresent
6 my message.

7 MR. NICHOLS: And, you said, too, if it was
8 necessary after you had opportunity the review
9 the forthcoming analysis -- interview analysis
10 forms that we could repeat. You used the term
11 repeat, I remember.

12 MR. KUHAR: Yeah, I just said that again here
13 today.

14 MR. NICHOLS: I just want to be clear for the
15 record I'm not misrepresenting you. You know
16 what you said, okay. I'm not misrepresenting
17 you, am I?

18 MR. KUHAR: The first time you said it to be
19 technical, you misrepresented it because you said
20 that I suggested one route versus the other,
21 which I did not do. But to be totally clear,
22 what I think you seem to want is a concession
23 that we will agree to a second deposition of Mr.
24 Heller after you have --

25 MR. NICHOLS: But you suggested repeat --

1 MR. KUHAR: I'm trying to --

2 MR. NICHOLS: You said repeat.

3 MR. KUHAR: I'll work my way to the word repeat.

4 MR. NICHOLS: Okay.

5 MR. KUHAR: Okay. I hope you don't mean repeat
6 in the sense that you're going to ask the same
7 questions. That's why I say a second deposition.

8 MR. NICHOLS: When you said repeat, I understood
9 it to be the same person not the same question.

10 MR. KUHAR: Whatever. I mean the short of it is,
11 we'll agree to participate, we'll agree to have
12 Mr. Heller undergo another deposition so that you
13 can ask him questions related to the employee
14 interview forms after you have get them.

15 MR. NICHOLS: Okay.

16 MR. KUHAR: Is that what you want?

17 MR. NICHOLS: Right, that's what you said.

18 MR. KUHAR: Okay.

19 BY MR. NICHOLS:

20 Q. All right, continuing back on the record, Mr.
21 Heller, continuing -- And understand, Mr. Heller, my line of
22 inquiry is this, to the extent that you have factual
23 knowledge, I ask that you be responsive. To the extent you
24 don't, simply say you don't, you don't know.

25 A. Sure.

1 Q. Is that fair enough?

2 A. Sure, that's fair.

3 Q. Okay. Let's see I've covered two of these people
4 and I'm asking also to the extent that you can or able to be
5 responsive to the individual's name I'm calling, all right?

6 A. Yes.

7 Q. And the standing question, the inquiry at the end
8 of each one of these names and synopsis I give of their
9 background is why did you hire them rather than Miss Wagner,
10 okay? That's the question that would follow each one of
11 these that we would follow?

12 A. Sure.

13 Q. Okay. We covered Miss Jensen.

14 BERNARD WAGNER: No, restart back with her.

15 MR. NICHOLS: Jensen? Leslie Jensen?

16 MR. KUCHAR: Hold on.

17 MR. NICHOLS: Okay.

18 MR. KUCHAR: Did I miss that?

19 MR. MC EWEN: That was the first one.

20 MR. KUCHAR: I have Hamilton. Do you have another
21 one?

22 THE WITNESS: No, I don't have another one.

23 BERNARD WAGNER: Just do Jensen and go down the
24 line.

25 MR. NICHOLS: Leslie Joan Jensen.

1 MR. KUHAR: All right, I have it.

2 BY MR. NICHOLS:

3 Q. All right, for the sake of the record, I simply
4 said with respect to her application she was hired outside
5 the school district and there was no recommendation
6 supporting her application.

7 MR. KUHAR: And I'm going to note an objection
8 that you don't know whether in fact that is
9 correct.

10 MR. NICHOLS: Her record reflects that, what I
11 have.

12 MR. KUHAR: You don't --

13 MR. NICHOLS: What I have reflects that.

14 MR. KUHAR: Exactly what you've been given does
15 not include letters of recommendation.

16 MR. NICHOLS: But let the record reflect what I
17 have here, all of which you gave to me.

18 MR. KUHAR: Right.

19 MR. NICHOLS: Right.

20 MR. KUHAR: And I think I've advised you --

21 MR. NICHOLS: So you're saying what you gave me
22 is not -- is not to be accepted as accurate?

23 MR. KUHAR: I'm sure I didn't say that.

24 MR. NICHOLS: The documentation --

25 MR. KUHAR: I'm sure I didn't say that.

1 MR. NICHOLS: What are you saying, counsel?

2 MR. KUCHAR: If they were provided, which they
3 likely were and destroyed, which they likely were
4 as indicated in my responses to your discovery,
5 then you wouldn't have them. It does not
6 automatically follow that they never once
7 existed. I told you --

8 MR. NICHOLS: The only thing I can operate on is
9 what was given us or was not given us.

10 MR. KUCHAR: I told you -- That's what I --

11 MR. NICHOLS: That's what I'm saying, what was
12 given us, that's the only record I have to
13 operate on, assumptions, whatever.

14 MR. KUCHAR: Okay, you load up the question by
15 saying she had no letters of support --

16 MR. NICHOLS: Based upon what I have here, based
17 upon the record.

18 MR. KUCHAR: Do you understand that just because
19 he says she had no letters of support doesn't
20 mean that she had no letters of support, it means
21 just he hasn't been given any. Do you
22 understand that?

23 THE WITNESS: I do now.

24 MR. NICHOLS: Okay.

25 THE WITNESS: Yeah.

1 MR. NICHOLS: Okay.

2 A. We don't put everything in their file. When they
3 apply for a position, in their personnel file, their file,
4 we keep their certificate, Act 34, 151 physical and
5 documents that they receive as employees of this district
6 during employment years.

7 You know a lot of things that they come to the table
8 with we don't put in their personnel file due to space.

9 Q. All right.

10 A. Mainly that we don't need like letters of
11 reference --

12 Q. What do you do with those that you don't keep in
13 the file?

14 A. We either discard them or, you know, we will tell
15 them that they can come pick them up, whatever.

16 Q. I see. Okay, Marcie Pifer again.

17 BERNARD WAGNER: Caleb, ask him why she was hired
18 over her.

19 BY MR. NICHOLS:

20 Q. You understand, you're giving me the reason --
21 Did you give -- Again, I ask to respond to my question again
22 and understand the question after each one of these names
23 and after I give a recitation of the synopsis of their --
24 what our file reflects is why you didn't hire Miss Wagner as
25 opposed to this person who was hired, okay?

1 And Leslie Jensen, I don't think I heard your reason
2 why you hired her?

3 MR. KUHAR: Can I ask him -- Just so I don't have
4 to ask 50 questions at the end, can I also ask
5 him to tell us when it happened? Because I think
6 it would also help us, in June of '04.

7 Can you ask him to say when it
8 happened in answer the your question, too?

9 BY MR. NICHOLS:

10 Q. Well, these names are not new -- novel to you,
11 are they, Mr. Heller?

12 MR. KUHAR: You've only asked him two.

13 MR. NICHOLS: What?

14 MR. KUHAR: He doesn't know, you only asked him
15 two. But as a convenience to me, can't I ask
16 you, in his answer, to give you the date?

17 MR. NICHOLS: Fine.

18 MR. KUHAR: That's all I'm asking.

19 A. June of '04. Probably May or June of '04 is when
20 she was hired officially.

21 Q. Why was she hired? Again, can you give us --

22 A. She was hired as a gifted education teacher
23 because she had background in gifted education where she had
24 previously been an educator in Ohio, I think.

25 Q. I notice in the area -- It seems her area of

1 specialty concentration being the area of music?

2 A. That's correct, K to 12. And gifted is gifted
3 and talented. And music can be considered a talent and
4 there's many students that are in that. Yeah, she worked --

5 Q. When you say gifted, was she nationally
6 recognized --

7 A. No, no.

8 Q. -- In this area?

9 A. I didn't say she was gifted, I said she had
10 experience in gifted education.

11 Q. In teaching gifted children?

12 A. That's correct.

13 Q. I see. And that was based upon that work in
14 Ohio?

15 A. In the state of Ohio public school system.

16 Q. Mr. Heller, once again, with Miss Jensen, the
17 one, was she also observed before you hired her?

18 A. She was on the substitute list, and I can't tell
19 you, I don't know at this point unless -- I need more
20 information I guess. I'm not --

21 Q. You say she was on the substitute list here?

22 A. Yes.

23 Q. At the district?

24 A. Yes.

25 Q. I thought she taught on Ohio?

1 A. She was on the -- She was on our substitute list.

2 Q. Which jurisdiction -- Oh, yours.

3 A. Ours. She had previous teaching experience.

4 Q. What are we talking about for the year?

5 A. 2003-2004 school year.

6 Q. Did she hold an emergency permit?

7 A. She had an out of state, which she had to take a
8 practice and then she received her permanent instructional.
9 It was a 61, type 61.

10 Q. What is a type 61?

11 A. It's an instructional certificate. You have to
12 have three years.

13 Q. Is it obtained through the state education
14 department?

15 A. Yeah, PDE.

16 Q. Is that the same as an emergency certificate?

17 A. It's a temporary certificate.

18 Q. Is that essentially the same as an emergency
19 permit when you say temporary certification?

20 A. No, its different, it's a type 61.

21 Q. I understand that. I don't understand all the
22 jargon. You're the expert in the area, in the
23 administrators and hiring the people with the certification,
24 that's what I'm asking you for illumination. You know, you
25 said type 61. Then I am -- I am familiar with the policy

1 dealing with the hiring of emergency substitutes, but I'm
2 not with the type 61. I'm not sure. That's what I'm
3 asking, I'm probing you.

4 A. Type 61 is what people receive when they graduate
5 from college as a -- with a certification of teaching in
6 Pennsylvania. Okay, once employed they have six years to
7 take -- to complete 24 credits and six years of satisfactory
8 teaching and then they can apply and must apply for the
9 instructional, too, which is a type 62, I believe.

10 Q. That -- And people that go to college are
11 eligible to receive that particular classification, right,
12 the type 61?

13 A. With a teaching certificate?

14 Q. With a teaching certificate.

15 A. With a -- They have to have a teaching
16 certificate not just a diploma. It's different than an
17 emergency.

18 Q. All right, let's turn to Marcie Pifer. Again,
19 her record reflects that she had -- At the time she was
20 hired she had less experience teaching than Miss Wagner --
21 That is as a substitute teacher and only one recommendation
22 I found in her record. And I looked at her evaluative
23 background materials, it's very sparse. What justified you
24 to hire her rather than Miss Wagner?

25 A. To be honest with you, I don't really feel that I

1 can answer that question with any of these people that
2 you're going to ask me until I'm able to see the rating
3 form.

4 The only thing I can assume is they had a higher
5 rating than Mrs. Wagner.

6 Q. Now you said rating form?

7 A. I think -- The rating scale that we use for the
8 interview process.

9 Q. Okay. Well let's go forward as best we can to
10 the extent you can answer, please do, all right?

11 A. Sure.

12 Q. If you don't know, just say I don't know, I can't
13 answer, all right?

14 MR. KUHAR: I think he just did.

15 Q. Okay, let's go forward then. I understand Miss
16 Jamison did not undergo the interview from a long term
17 substitute position that she held 2001 -- in the school year
18 2001-2002.

19 A. I don't know.

20 Q. Don't know, okay. Erin Bourkaman (sic)?

21 A. Bourquin.

22 Q. Bourquin. I saw no practical teaching experience
23 except substitute teaching in her background?

24 A. She was a substitute.

25 Q. What year?

1 A. '04. She was hired for the '04-'05.

2 Q. And at that juncture Miss Wagner had three years,
3 substitute practice, how could you hire someone --

4 A. All I can say, Mr. Nichols, is -- And I think
5 that anybody that is in the -- that is part of this process,
6 is that just because you're a substitute in the district
7 doesn't mean that you're going to be offered a permanent
8 position. That doesn't qualify you or -- You know, if
9 you're a substitute in this district it doesn't mean that
10 you can expect to be hired permanently some day or very
11 soon. That's all I can say about that.

12 Q. All right.

13 A. Substituting, if you -- If you're doing a great
14 job and it's recognized, then there's a good chance it's
15 going to work.

16 Q. Okay. Jennifer Stefanucci, no prior teaching
17 experience, only one recommendation.

18 A. I --

19 MR. KUHAR: Hold on.

20 Q. Would you please, Jennifer Stefanucci?

21 A. Jennifer Stefanucci went through the interview
22 process. Jennifer Stefanucci had a background in early
23 childhood education. We were looking for a kindergarten
24 teacher with an emphasis in early childhood.

25 If you want to know why she got to job over Mrs.

1 Wagner, Mrs. Wagner does not have an emphasis in early
2 childhood. She has a teaching certificate in elementary
3 education.

4 Q. Kristen Bazylak?

5 A. Kristen Bazylak is a guidance counselor and Mrs.
6 Wagner is not certified to be in that position.

7 Q. The record should reflect she was hired from
8 outside the school district.

9 A. Excuse me?

10 Q. Outside the school district.

11 A. Many people are.

12 MR. KUCHAR: What's your question?

13 MR. NICHOLS: All right, I note for the record
14 and I note it in light of Article 11 of the
15 collective bargaining agreement --

16 MR. KUCHAR: You don't know -- How can you quote
17 it? You don't know it to be true.

18 MR. NICHOLS: I said -- I'm reciting Article 11
19 as part of the bargaining agreement. You can
20 read it if you wish to. Read it. Fine, that's
21 all I have to say --

22 MR. KUCHAR: You're giving us facts about the
23 particular person.

24 MR. NICHOLS: But I noted, and my basis for my
25 notation for the record was that outside the

1 school district, the person was hired not from
2 within the school district. And the reference to
3 Article 11, I think, in the bargaining agreement
4 is pretty clear.

5 MR. MC EWEN: For the record, I'd like to say
6 from the Association's perspective that I do not
7 believe Mr. Nichols interpretation of the
8 bargaining agreement are correct --

9 MR. NICHOLS: I would like you to state what your
10 version is, the correct version. Counsel, you
11 have now -- you have now refuted my
12 interpretation, please, state your correct
13 version, what you view as the correct version.

14 MR. MC EWEN: Frankly, I'm not entirely clear
15 what you're basing this assumption on.

16 MR. KUHAR: Article 11, vacancies.

17 MR. MC EWEN: Okay. And Article 11(b) sets out a
18 rather comprehensive point system --

19 MR. NICHOLS: Not the point system, I know what
20 the point system is.

21 MR. MC EWEN: That's my objection, you're taking
22 one thing out of many, one sentence out of the
23 article.

24 MR. NICHOLS: Not of the point system.

25 MR. MC EWEN: The point system is an intrinsic

1 part of Article 11 and the system in the
2 collective bargaining agreement for filling
3 vacant positions, so you can't just ignore that
4 and say that your -- what the district is doing
5 does or does not follow the contract --

6 MR. NICHOLS: No, wait a minute, wait a minute,
7 hold on. I'm going to read the contract copy.
8 Who has a copy of the collective bargaining
9 agreement?

10 MR. KUHAR: You know, I'm reluctant to even give
11 it to you, because it has no relevancy to the
12 deposition.

13 MR. NICHOLS: Okay.

14 MR. KUHAR: You're suppose to be --

15 MR. NICHOLS: This is my view and I'm not going
16 to belabor it because it's just a version. But
17 11(b) says, and this is what I'm referring to,
18 vacancies. Captioned, vacancies, the board
19 declares its policy of filling vacancies from
20 within its own teaching staff, period.

21 That's all I want to say about that. I'm
22 moving forward because this is the version of
23 that.

24 MR. MC EWEN: Well, I'd still like to complete
25 my objection for the record that Mr. Nichols

1 interpretation of the collective bargaining
2 agreement is not necessarily the interpretation
3 by either the Association or the district or the
4 courts or anyone else who has the actual legal
5 authority to interpret the collective bargaining
6 agreement.

7 MR. KUHAR: And I'll refrain from offering my
8 interpretation of the contract, because this is a
9 deposition where such opinions are not relevant.

10 MR. NICHOLS: It's a diversion. Let's continue.

11 MR. KUHAR: Stop diverting us.

12 MR. NICHOLS: Stop that. I have a right to ask
13 my question, all right.

14 BY MR. NICHOLS:

15 Q. Continue, Mr. Heller. Megan Porter, any comments
16 on her hiring?

17 MR. KUHAR: Wait a minute, these are like in
18 reverse order I think. Megan Porter. Porter
19 with a "P". Take a look at that (indicating) and
20 remember we were going to be giving dates when
21 hiring decision were made, if we remember them.

22 A. Megan an was hired in '04 in a one year temporary
23 position.

24 Q. And the reason --

25 A. Last year she was hired permanently.

1 Q. But the rationale for hiring her rather than Miss
2 Wagner?

3 A. I'm going to say it one more time, I don't know
4 that I can respond 100 percent --

5 Q. You just don't know?

6 A. The rating form, I'd like to see the rating form
7 before I make a comment.

8 MR. KUHAR: It's not a matter that he doesn't
9 know. You told him to tell you if he can't
10 answer and why, and he's trying to and you cut
11 him off.

12 MR. NICHOLS: No, it's not like that. You said
13 you don't have a comment. You either have a
14 comment or you don't.

15 MR. KUHAR: No, it's not like that and I'm going
16 to pull him out of the deposition if you don't
17 let him finish his answers.

18 MR. NICHOLS: Please, don't make a threat like
19 that. You know where that leads to.

20 MR. KUHAR: Call it what you want.

21 MR. NICHOLS: It leads to the judge. We have the
22 right to depose witnesses. You know where that
23 leads so don't be irresponsible and force me to
24 go to the judge, all right.

25 MR. KUHAR: Go to the judge whenever you feel

1 like it.

2 MR. NICHOLS: All right.

3 MR. KUHAR: I'm going to pull this person out of
4 this deposition if you don't allow him to finish
5 his answer.

6 MR. NICHOLS: Please, please --

7 MR. KUHAR: That's --

8 MR. NICHOLS: Go right ahead, Mr. Heller.

9 A. I already answered Megan Porter. I'm done. I
10 said I have to look at the valuation form, the rating forms
11 before I'd want to respond to that.

12 Q. All right. Okay.

13 A. And all the others.

14 Q. Okay. We'll do it this way, Mr. Heller -- For
15 the record, let the record reflect that the -- Mr. Heller
16 has expressed a desire to look at the rating forms before he
17 be responsive to the remainder of the applicants contained
18 in this batch, which I have denoted as Exhibit 19.

19 For the record I'm going forward and read into the
20 record the remaining of these, what I have.

21 MR. KUHAR: Fine.

22 Q. Mr. Heller, understand that once I receive the
23 interview analysis forms, review those, I may recall you,
24 all right?

25 A. Sure, I expect that.

1 Q. For further questions.

2 A. All right.

3 Q. Mark S. Weathers, no prior teaching experience,
4 no letters of recommendation.

5 Laurie Carr. Laurie Carr worked outside of Crawford
6 Central School District and as a substitute teacher in the
7 other school Districts when hired by Crawford Central School
8 District.

9 Danielle Morris, no prior teaching experience in
10 Crawford Central School District when hired in 2004.
11 Rehired in 2005 for a full-time position in the Cochranton
12 Elementary School.

13 Brian Mahoney, known as the son-in-law of Douglas
14 Stanton, an official in the Crawford Central School
15 District, hired as a full-time teacher July, 2002. No
16 documented record that Mr. Mahoney was hired in compliance
17 with Pennsylvania anti-nepotism law, a policy. He taught as
18 a substitute teacher during the fall of 2000, and then hired
19 as a permanent substitute teacher spring 2001.

20 Cheryl Krachkowski, K-R-A-C-H-K-O-W-S-K-I, first name
21 Cheryl, C-H-E-R-Y-L, hired from outside Crawford Central
22 School District. Hired as a permanent substitute teacher
23 effective September, 2004 for the 2004-2005 school year.

24 Tammy Foster. Tammy Foster, no particular commentary
25 at this point except for the fact as a true comment to all

1 the others I expect to receive an employment interview
2 analysis.

3 A couple matters with respect to Miss Foster's
4 application that she is a minority. And two, it is my
5 general understanding that she has been trying to obtain a
6 teaching position for which she recently was hired. It took
7 her nine years to obtain that job.

8 Nikki Shearer. Nikki Shearer, no practical teaching
9 experience. And two, there is reason to believe that Miss
10 Shearer is related either by blood or marriage to someone on
11 the board or administration or possibly principal or teacher
12 or those individuals who are noted -- who are indicated in
13 the anti-nepotism policy; and therefore, reason to believe
14 that the anti-nepotism policy was not complied with at the
15 time that she was hired.

16 Marie Ann McElwain. Marie Ann McElwain was hired
17 right out of college, no practical teaching experience.

18 Chad DuPont, hired from outside the school district.
19 Very limited teaching experience.

20 Rebecca Resinger Kelly. Rebecca Resinger,
21 R-E-S-I-N-G-E-R, Kelly, hired from outside Crawford Central
22 School District.

23 Lisa Taormina, and spelled, T-A-R -- T-A-O-R-M-I-N-A.
24 No notable commentary.

25 Okay, those I would offer as Exhibit 19. Exhibit 19.

1 Okay, Amy Lawrence. We had Amy Lawrence.

2 Exhibit 20. Okay, Exhibit 20 is a statement of policy
3 promulgated by Equal Employment Opportunity Commission,
4 requires the record keeping and filing of EEO data by school
5 districts. Exhibit 20.

6 Exhibit 21 in particular is a regulation, PA code, 22
7 PA code, section 49 point 31 statement of the policy which
8 has already been reiterated this morning into the record,
9 speaking to the conditions under which teachers have and
10 hold special permits would be allowed to teach. Exhibit 21.

11 Exhibit 22 -- I'd like, Mr. Heller, to call your
12 attention to Exhibit 22, please. If you have a copy, I'd
13 like you to turn to page two and the answer, the last answer
14 shown on page two in there. It says that EEO reports were
15 discarded by a former clerk, by a former clerical employee.

16 Initially, I asked -- In the course of discovery I
17 asked Mr. Kuhar to provide me with EEO form fives beginning
18 with 1990 and coming forward to the most current. He sent
19 me the forms for 1996 coming forward and he also indicated
20 -- This is the answer with respect to those forms for the
21 year 1990 through 1995, they were lost.

22 One, you were aware of this, of course, that these
23 particular documents have been lost?

24 (Heller Deposition Exhibits 20, 21 & 22 were
25 marked.)

1 MR. KUHAR: I object in that that's not what I
2 said. I said we believe that they were destroyed
3 by a former clerical employee. We did not say
4 they were lost.

5 Q. Based upon what it said here, Mr. Heller, were
6 you aware of that?

7 A. Aware of that statement?

8 Q. That they had been discarded, may have been
9 discarded, were you aware of that?

10 A. I was aware of it at that time, yes.

11 Q. And this occurred when? Are we talking about
12 1990 through 1995?

13 MR. KUHAR: The statement or the discarding?

14 MR. NICHOLS: The discarding.

15 A. I can't answer that. I don't know.

16 Q. You don't know?

17 A. No.

18 Q. Well, when did it first come to your attention
19 this -- what this refers to?

20 A. When we were --

21 Q. When did it first come to your attention?

22 A. When we were asked to supply them.

23 Q. So that would have been -- to supply for this?

24 A. With your request of us to supply them.

25 Q. You didn't know that before?

1 A. No, I didn't.

2 Q. The maintenance of EEO-5 records, is that a part
3 of your responsibility?

4 A. Yeah, EEO-5.

5 Q. Right?

6 A. Out of my office.

7 Q. Your office?

8 A. Correct.

9 Q. Okay. I looked at the work description of Miss
10 Good and she deals with federal programs. Is she more
11 intimately involved in this than you, the maintaining of
12 these records, these are federal programs, the EEO? Would
13 that be part of her responsibility?

14 A. No.

15 Q. Would not?

16 A. Not EEO-5, no.

17 Q. That's your responsibility?

18 A. My responsibility.

19 Q. And these are provided biennially, right?

20 A. Correct.

21 Q. To the Equal Employment Opportunity Commission,
22 right?

23 A. Correct.

24 Q. You gather this material -- You are therefore
25 charged with gathering this material. How do you obtain

1 this data which goes in the preparation of these reports?

2 A. Files, mainly. Personnel files.

3 Q. Personnel files?

4 A. Personnel files of our listed employees.

5 Q. And these come from application?

6 A. We look at records from year to year, from every
7 other year, you know, we examine and then we check new
8 employees and that kind of thing.

9 Q. On the files that you now refer to, from which
10 you culled this information, these files -- on these files,
11 obviously it would be indicated the employee's ethnicity,
12 race, right, gender, would it not?

13 A. Yes.

14 Q. Okay. All right. Now once you found out these
15 files may have been discarded, you say of late here you
16 found that out, did you initiate an investigation?

17 A. Yeah, the answer is on that -- on page two.

18 Q. Well, no, not concerning this question. I'm
19 asking you now -- After reasonable investigation, okay,
20 after reasonable investigation, tell me how did you go about
21 it? What did you do?

22 You call it a reasonable investigation, could you tell
23 me what did you do in terms of investigation, that you
24 conducted an investigation?

25 A. My secretary is in her second year, so I know it

1 wasn't her that discarded them, okay. And I believe that it
2 had been the previous secretary.

3 Q. Okay. So you base this upon your investigation
4 that you conducted, right?

5 A. Yes.

6 Q. Okay.

7 A. And I haven't been able to complete it yet, but
8 potentially we may only have to keep those records for seven
9 years.

10 Q. Yeah, but the question still --

11 A. So, we're past the seven years.

12 Q. I'm though now in the investigation. Once you
13 found out about -- Did you report it to the federal agency
14 --

15 A. No, I didn't.

16 Q. Didn't report it?

17 A. No.

18 Q. How about the State Department of Education?

19 A. Why would I?

20 Q. I'm asking you.

21 A. Tell me why I should.

22 Q. I don't know. I'm not in a position to. I ask
23 the questions.

24 A. I explained, I said no.

25 Q. You give the answers, please, I asked the

1 question of you.

2 A. And I answered your question. I answered it but
3 you're not listening.

4 Q. All right, I'll listen.

5 A. I said, no, I didn't.

6 Q. Didn't report it to any agency?

7 A. Yes.

8 Q. All right, fine. Turn over to the next page.

9 Turn to the next page and that is the -- in particular, that
10 is looking at the answer. That would be the third answer
11 shown on that page. And that also -- That answer refers to
12 document or data having been lost.

13 And in particular it refers to substitute teaching
14 lists for the school year 2002 and 2003. Likewise, is that
15 an area that would fall within your purview, these
16 particular data, and you note that they are electronically
17 stored or maintained?

18 A. We contract these through Communication Centers,
19 Incorporated, a contract service. A disk went bad and it
20 was their responsibility to keep the records. And that's
21 part of the contract and --

22 Q. When did that first come to your attention?

23 A. When we needed the list probably --

24 Q. When did that --

25 A. First within the past year.

1 Q. Okay. What contract service are you talking
2 about, referring to?

3 A. Communication Centers, Incorporated.

4 Q. Okay.

5 A. Is who we contract through.

6 Q. And likewise did you conduct an investigation
7 once you found this out, that this data was missing?

8 A. Well, you know, I explained that. They explained
9 it to us why they couldn't come up with the lists, didn't I?

10 Q. Why didn't they -- Why couldn't they come up with
11 the list?

12 MR. KUHAR: He already answered that.

13 A. I answered the question.

14 Q. No, I fail to understand.

15 A. The file went bad.

16 Q. The file went bad, okay.

17 A. On the disk, okay.

18 Q. All right.

19 A. For that year.

20 Q. Okay.

21 A. They lost it. They had the other ones but
22 something happened to the disk.

23 Q. Okay. So all the substitute lists, the teacher
24 substitute lists was missing, forever discarded or lost for
25 that particular period for that school year?

1 A. Yes, the --

2 Q. No way of retrieving it otherwise?

3 A. I can't think of another at this point.

4 Q. Okay, Exhibit 22. Exhibit 23. Mr. Heller, look
5 at seven -- paragraph seven on Exhibit 23.

6 (Heller Deposition Exhibit 23 was marked.)

7 A. On page four?

8 Q. Yeah.

9 A. Okay.

10 Q. Notice that it reads whenever a professional
11 teaching vacancy arose or anticipated in the Crawford
12 Central School District the current members of the teaching
13 staff have the first opportunity to bid on the vacancy.
14 Okay, clear enough. Member of the union, that's what --
15 that's what bargaining rights are all about, right?

16 A. Yes.

17 Q. All right. I understand. But what I don't
18 understand is looking at Exhibit 24, Exhibit 24 --

19 (Heller Deposition Exhibit 24 was marked.)

20 MR. KUHAR: What part of it?

21 MR. NICHOLS: All of it. All of it, 24.

22 BY MR. NICHOLS:

23 Q. There are several letters of rejection, and of
24 course, Mr. Heller, your name is shown, rejected to Miss
25 Wagner. Several letters. And I notice in several of these

1 letters it says that -- says that none of the postings seem
2 to be received from members of the union, from members of
3 the union.

4 My question is this, if no members of the union in
5 these particular instances when these vacancies occurred, if
6 no member of the union applied, why wasn't Miss Wagner
7 considered?

8 A. Because it's part of the selection process. We
9 just don't -- don't do it on an individual basis. You apply
10 for the position, we interview candidates.

11 Q. Right.

12 A. And the committee selects the person that we --

13 Q. I mean in this case no member of the union
14 applied?

15 A. Yeah.

16 MR. KUHAR: Which case? Can you direct us to
17 one?

18 MR. NICHOLS: All of these. These are letters of
19 rejection. You say that in all of these letters.

20 MR. KUHAR: Okay.

21 MR. NICHOLS: That's why I included them.

22 MR. KUHAR: All of --

23 MR. NICHOLS: Except for one or two.

24 MR. KUHAR: I'm looking at the first one, which
25 doesn't say anything about nobody in the union

1 applying.

2 MR. NICHOLS: Let's look. What date --

3 MR. KUHAR: How about pointing out one that does?
4 May 20th.

5 MR. NICHOLS: I'm looking at April 19th. April
6 19th to say and I'm not -- the posting, did not
7 receive any bid from Crawford Central Education
8 Association.

9 One, May 10th, same.

10 MR. KUHAR: We're looking at April 19th. We can
11 only look at one at a time.

12 MR. NICHOLS: I'm going to read with specificity
13 to answer your question. May 10th, same letter,
14 posting, did not receive a bid from member of the
15 Crawford Central --

16 MR. KUHAR: I asked to identified one.

17 MR. NICHOLS: I'm going to do that for the
18 record.

19 MR. KUHAR: Aren't you going to put them in the
20 record?

21 MR. NICHOLS: Posted May 10th, June 3rd, February
22 -- Well, this is quite a little different. But
23 I'm going to -- It's in there. These are the --
24 These are in the records. You will see for
25 yourself, Exhibit 24, no bid type situation.

1 MR. KUHAR: What's the question?

2 BY MR. MC EWEN:

3 Q. My question simply to Mr. Heller, why was Miss
4 Wagner not even afforded the decency of an interview? No
5 members of the union stood in the line, why?

6 A. For these positions?

7 Q. Uh-huh.

8 A. We did interview for these positions.

9 Q. You didn't interview her?

10 A. Yes, we did.

11 Q. Which one?

12 A. We --

13 Q. Because over the -- I have here -- Let me tell
14 you, Mr. Heller, I have Exhibit 25 which is well over 100
15 applications that she has applied for over the span of four,
16 five years. She has been interviewed only twice.

17 MR. KUHAR: Do you want his answer or not?

18 BY MR. NICHOLS:

19 Q. That's what I'm asking, your answer. Go ahead,
20 please.

21 A. You sure?

22 Q. Please. Please.

23 A. Sure. We began -- We anticipated a large number
24 of vacancies at the elementary level for the 2004-2005
25 school year, which is what you're referring to here in these

1 letters, okay. We interviewed approximately 40 people for
2 those elementary positions. All right, we started in March.
3 All right, they went through a two prong interview. They
4 interviewed with four people for 30 minutes and they turned
5 right around and interviewed with four more people for 30
6 more minutes. Eight questions in each group.

7 Okay, we compiled a composite on the teacher analysis
8 form, if you will, and as these positions became available
9 as vacancies. As a selection committee, the eight of us,
10 the eight people who were involved in that process, we
11 placed or offered these positions to the people that we
12 interviewed.

13 Mrs. Wagner was one of the 40 people that we
14 interviewed that took that -- That was the only time we
15 interviewed for that year was in -- We started in March
16 because we wanted to get a jump, so we felt that we could
17 get --

18 Q. Do you know --

19 A. Hold on, I'm not finished.

20 Q. Go ahead.

21 A. So that we could get the best candidates for the
22 positions and so we're a little bit ahead of our neighboring
23 school districts. That's what we did.

24 Q. Can you take a moment there and tell me which one
25 -- which one Miss Wagner was interviewed for?

1 A. I can tell you right now the --

2 Q. Take a moment.

3 A. The April 19th one, if that was a vacancy.

4 Q. Yeah, April, 2004.

5 A. May 10th.

6 Q. Wait a minute, now you said April 19th. Did you
7 interview her for April 19th?

8 MR. KUHAR: He described the interview process
9 that took place.

10 MR. NICHOLS: I know the process. I'm asking
11 which one he said he did.

12 MR. KUHAR: He interviewed her for all at the
13 same time. They did one batch of interviews of
14 40 people for a number of positions.

15 A. Here, Mr. Nichols --

16 (Off-the-record discussion.)

17 Q. Okay, Mrs. Wagner tells me with respect to
18 February 19th --

19 A. Right, here, look at that. That will explain the
20 process.

21 Q. Okay. She said she remembered, all right.

22 A. All right.

23 Q. With respect to the 2004 and 2005, she was not
24 called for an interview?

25 A. That covered -- That was the interview process

1 that we set up for the vacancies for the 2004-2005 school
2 year.

3 Q. Yeah, this school year?

4 A. No, no, this is 2005-2006 school year.

5 Q. But Miss Wagner's question is 2004 and 2005
6 school year she was not interviewed --

7 A. Yes, she was.

8 Q. Okay. Well, correction, 2005-2006 school year,
9 none of those positions she received an interview for?

10 MR. KUHAR: Do you understand the question?

11 That's a straight question. It's probably --

12 A. 2005-2006 school year?

13 Q. Right.

14 A. Why we haven't interviewed her for the 2005-2006,
15 school year?

16 Q. Right.

17 A. It will take me awhile to explain this, so hang
18 tight.

19 Q Okay.

20 A. In 2002, November 22nd as I recall was when I did
21 the observation form, okay. The observation, I did a
22 post-conference with Mrs. Wagner and I had made suggestions
23 to her on what I felt that she needed to do to strengthen
24 her knowledge base and skills in order to attain a position
25 here in Crawford Central School District.

1 At the same time I made a recommendation or
2 recommendations or suggestion that she receive advice,
3 suggestions or use the Title 1 reading teacher as a resource
4 to help her along with the process. I also explained to her
5 that she needed to make contact with Suzanne Good, the
6 director of elementary curriculum, and she could help her in
7 some staff development which would put her in a position to
8 have a better chance of achieving a position.

9 And then this past -- She, to my knowledge, she made
10 one contact with the Title 1 reading teacher, and to my
11 knowledge she made zero contacts with Mrs. Good our director
12 of elementary curriculum and federal programs. And this
13 past summer I met with Mrs. Wagner and Mrs. Good was also
14 present --

15 MR. KUHAR: Which summer just to clarify?

16 A. The summer of 2005. And Mrs. Wagner, one of the
17 first questions that came out of her mouth was, do I ever
18 have a chance of getting a job in this school district? And
19 we said, yes, you do, but these are some of the things you
20 need to work on. And we went through a whole litany of
21 things that she needed to do. When she got to that point,
22 she needed to call us back and we would go over these
23 things.

24 We never heard back from Mrs. Wagner, and I just
25 assumed that she really wasn't interested in making the

1 necessary progress that we felt she needed to have in order
2 to be considered as a top candidate for a teaching position.

3 Q. Okay. Now, Mr. Heller --

4 A. No, it was 2004, I'm sorry. I'm sorry, 2004. To
5 correct that it was 2004.

6 Q. When you met with her --

7 A. The summer of 2004.

8 Q. You're referring to the time you met with her?

9 A. Yes.

10 Q. Uh-huh.

11 A. I retract that.

12 Q. And she asked you for a copy of her evaluation
13 and she was told that you were -- analysis and you told her
14 you would not make it available to her?

15 A. That's right, I didn't make them available to
16 anybody.

17 Q. As a matter of policy or what is it?

18 A. Procedure protocol.

19 Q. Why would you withhold it if she wanted to see
20 and to work on it, and to obviously be informed? It was her
21 concern. It was her evaluation.

22 A. It's just a decision I made at that particular
23 time, that's the only thing I can say about it.

24 Q. But it is a fact though, Mr. Heller, isn't it,
25 that what I have here, Exhibit 25, which is 100 plus

1 applications that Mrs. Wagner has filed during the span of
2 the last four or five years, and she, during that period,
3 she has received only two interviews. One of which you just
4 referred to and the other one was Miss Pickens, the
5 replacement for Miss Pickens. Only two out of 100 and some
6 applications.

7 For the life of me, could you tell me why?

8 (Heller Deposition Exhibit 25 was marked.)

9 MR. KUHAR: I object to the question two ways.
10 Number one, it's in bad faith because you know as
11 a matter of union contract she was not entitled
12 to most of those positions. And number two, his
13 prior testimony was that she was interviewed for
14 20 positions at one time in the spring of '04.

15 Do your best to answer the question.

16 A. We interviewed her for every vacant elementary
17 position since I have been at Crawford Central School
18 District through the 2005 school year, other than I guess
19 you could say the kindergarten position at east end
20 elementary school last fall.

21 Q. Now, you indicated in your testimony just
22 momentarily ago that you thought that Miss -- You had
23 concluded that Miss Wagner was no longer interested in the
24 job, right? That's what you testified to, fair? Fair
25 characterization of your testimony?

1 A. Yes, that's right, that's correct.

2 Q. Why would she then continue to send you
3 applications? Why? Is that not indicative of interest?

4 A. I guess it shows me that she's interested in a
5 position, but I guess not interested at being at the level
6 that we would like her to be at in order to be offered that
7 position.

8 Q. And Exhibit 26, I show you (indicating). You
9 will notice emblazoned across the top caption, District
10 Hires 58 new teachers. Fifty-eight new teachers. Miss
11 Wagner applied for 37 of these positions.

12 (Heller Deposition Exhibit 26 was marked.)

13 A. No, she didn't. She's not certified for all
14 those positions.

15 Q. She applied for 37 of them, didn't you?

16 MR. KUHAR: What's your question? Do you want
17 him to assume that she applied for 37?

18 MR. NICHOLS: It's a fact, you don't have to
19 assume she applied.

20 MR. KUHAR: He disagreed. So do you have a
21 question or not?

22 BY MR. NICHOLS:

23 Q. You're saying, Mr. Heller, you didn't receive an
24 application from her for these -- for 37 of these 58
25 positions or you don't know?

1 A. We receive a lot of applications, but the
2 applications -- Let's put it this way, they aren't
3 applications. Most often they're letters of interest.

4 Q. Right.

5 A. We receive letters of interest for every posted
6 vacancy in the district. But we don't always have a
7 vacancy, okay.

8 So she may have applied for 37 positions, but we
9 certainly didn't have 37 positions in this year that she was
10 certified to be in the position for, because they were
11 filled through the bidding process.

12 As I explained to you a long time ago, we haven't had
13 that many elementary ed positions open through like 2000
14 through 2003 school year. We only had like -- We only
15 filled like 10 positions because --

16 Q. But this is 2004-2005 school year?

17 A. We didn't fill a whole lot more on top of that
18 either. I can tell you. There's probably not more than 10
19 positions on here that Mrs. Wagner is certified for.

20 MR. KUHAR: Did you catch that?

21 Q. But she did apply for other than the fact --

22 A. Did you hear what I said?

23 Q. I heard --

24 A. Out of 58 positions there's only about 10 she's
25 certified for, not 37.

1 Q. But she was not even interviewed for any of those
2 even after four years of teaching?

3 MR. KUHAR: He already testified about that. You
4 asked him why he didn't and he answered.

5 MR. NICHOLS: All right, okay.

6 Q. All right, Exhibit 27. Exhibit 27 is one item
7 I'd like to direct your attention. Mr. Heller, Exhibit 27,
8 do you have access to it?

9 (Heller Deposition Exhibit 27 was marked.)

10 A. All right.

11 Q. The third person whose name appears on the left,
12 Lisa Shuffstall, she was hired May, 2004 but not certified
13 until August, 2004. Meaning she was --

14 MR. KUHAR: What's your question?

15 Q. She was uncertified -- an unqualified person was
16 hired.

17 A. What's the question?

18 Q. The question -- It's obvious that that's a
19 violation of the policies.

20 A. Why is it?

21 Q. That person was not certified when hired.

22 A. She's --

23 Q. The policies state clearly that people have to be
24 certified when they're hired.

25 A. What --

1 Q. The dates suggest otherwise.

2 A. She received her certification -- She received
3 her official certification from PD, August 1st of, I believe
4 2004. All right, we don't start the school year until the
5 end of August.

6 Secondly, what the colleges and universities have done
7 to kind of assist their candidates and graduates as far as
8 attaining a position in the springtime is they will give
9 them a letter stating that they've completed all the
10 requirements towards their permanent certification, and the
11 process when they send it to Harrisburg is long, and they
12 get flooded at that time of the year and it just extends the
13 process.

14 So I'm sure that this was sent in May and it just --
15 Most normal time you send for one now it takes six weeks.
16 In the summertime it could take 12 because they're
17 overwhelmed with the number of applications that are sent
18 in. And we have a letter and we can do that.

19 Q. But the irrefutable fact is that a person was
20 hired long before they were certified, the dates.

21 MR. KUHAR: He answered the question.

22 A. We're totally in compliance.

23 Q. Moving forward, Exhibit 27. Moving forward.
24 Exhibit 28, Mr. Heller?

25 (Heller Deposition Exhibit 28 was marked.)

1 A. Yeah.

2 Q. I'm direct your attention to the fourth
3 paragraph?

4 A. Fourth paragraph on the first page?

5 Q. Yeah. The first page I view as the anti-nepotism
6 policy and I'm asking -- The first question is, explain --
7 state for the record how you implement this policy?

8 A. The fourth paragraph?

9 Q. Uh-huh, no teacher shall be employed who is
10 related?

11 A. I don't think that we've ever recommended anybody
12 to the board that's related to the board --

13 Q. Okay.

14 A. -- Since I've been here at Crawford Central
15 School District or before. I don't know. I can't speak to
16 before --

17 Q. I understand --

18 MR. KUHAR: He's not done answering.

19 Q. Go ahead.

20 A. I'm not aware that anybody is related to these
21 people that we've hired that's related to the board. And I
22 assume that if they were, then the board member would have
23 to abstain from the vote.

24 Q. Okay. My question is, still stands though, there
25 is a more extensive statement of this policy, this is just a

1 part of the policy?

2 MR. KUHAR: That's the part you had him looking
3 at.

4 Q. True, but there's a more extensive -- which
5 defines nepotism and the range of people, a class of
6 individuals it applies to, including members of the board,
7 members of the administration, principals, I believe
8 teachers who are related to the applicant or candidate by
9 blood or marriage.

10 My question is this -- I think you misunderstood my
11 question and I would pose it again. What system or
12 procedures do you have in place to -- for each personnel
13 transaction to discern or determine whether someone is
14 related by blood or marriage?

15 Do you have a system in place by which you screen
16 applicants that discloses that, that reveals that, discloses
17 that?

18 A. I can't say that I have a procedure in place for
19 screening applicants to assist us in the nepotism policy,
20 no, I don't.

21 Q. And I'm substituting -- Incidentally, I'm not
22 substituting I'm just changing, I have -- I have a more
23 complete statement of the policy. This is an abbreviated
24 one, which I'm not going to offer, I'm going to offer this
25 other one as Exhibit 28.

1 And the definition, they define nepotism as "No blood
2 relatives or relatives by marriage or any member of the
3 Crawford Central School District or of the Superintendent or
4 of his administrative staff, including principals, shall be
5 employed by the district in any capacity, unless the
6 applicant so are related is interviewed by the personnel
7 committee."

8 MR. KUHAR: I'd like to see what you're looking
9 at when you're done.

10 MR. NICHOLS: Yeah, Exhibit 28.

11 Q. And "to the full board. If such circumstances
12 --" "In such circumstances the personnel committee reserves
13 the right to interview all final candidates, including the
14 candidate, for the open position."

15 I'm simply asking -- You said that you haven't -- You
16 don't have a policy to comply with this policy, to implement
17 this policy, you don't?

18 MR. KUHAR: It's the same thing.

19 MR. MC EWEN: Just note for the record my copy of
20 Exhibit 28 is missing page two, which I believe
21 is what you just read from; is that correct?

22 MR. NICHOLS: You have the abbreviated one.

23 MR. MC EWEN: I have page three, I don't have
24 page two.

25 MR. KUHAR: There is no abbreviated versus long

1 version. The one you just read from and the one
2 he's looking at are the same.

3 MR. NICHOLS: All right.

4 BY MR. NICHOLS:

5 Q. But you gave me your answer, you don't have such
6 as in terms of implementing this policy, of screening
7 candidates?

8 A. Not really, no, not a procedural type of
9 screening in place.

10 Q. Do you know whether the board has any mechanism,
11 in place, policies in place by which they screen candidates
12 when they give their approval I should say, to applicants
13 recommended by the administration for hiring? Do you know
14 whether the board has a procedure?

15 A. I don't know that answer.

16 Q. You don't know?

17 A. I couldn't answer that.

18 Q. Okay, Exhibit 29, You have a copy of that?

19 A. Yes, I have it.

20 (Heller Deposition Exhibit 29 was marked.)

21 Q. I point specifically to the -- to Susan Ford and
22 there was a problem here dealing -- compliance with the
23 anti-nepotism policy. Miss Ford was hired as a kindergarten
24 teacher, Cochran Elementary School.

25 There is commentary here on Exhibit 29 that shows that

1 Miss Ford is related to Shawn Ford, who was the dean of
2 students at the Cochranon at that time, and was since moved
3 to assistant principal. And that specifically was that --
4 And as you have answered, that there was no compliance
5 because you don't have any policy, you don't recall any
6 situation where she's in compliance with the anti-nepotism
7 policy?

8 A. What was that again?

9 Q. To Miss Ford, no compliance with the
10 anti-nepotism as I see, because you -- And you said you
11 don't recall any compliance, the screening of applicants?

12 MR. KUHAR: He didn't say that.

13 MR. NICHOLS: That's what I understood you said.

14 MR. KUHAR: He said there was no procedure.

15 MR. NICHOLS: No procedure in place.

16 THE WITNESS: Okay.

17 MR. KUHAR: He wasn't talking about a specific
18 case.

19 MR. NICHOLS: Now I'm directing you to Exhibit
20 29, Miss Ford.

21 MR. KUHAR: He's looking at it. What's the
22 question?

23 BY MR. NICHOLS:

24 Q. I'm saying that it appears to me that there is a
25 possible relationship here --

1 MR. KUHAR: Are you asking?

2 Q. Either by marriage. It appears the me and I'm
3 asking, do you recall whether there was any screening by the
4 personnel committee or the committee who hired her or
5 recommended her for hiring?

6 MR. KUHAR: What's the date of that?

7 Q. For compliance with the anti-nepotism law?

8 MR. KUHAR: What's the date of her hire?

9 THE WITNESS: Her hire was probably 2-03.

10 MR. KUHAR: Okay. What's the question?
11 Whether there was compliance?

12 MR. NICHOLS: Yeah.

13 A. I think there was compliance to the anti-nepotism
14 law, yes.

15 Q. How would that have been done? How would that
16 have been accomplished?

17 A. I think at the time she wasn't hired -- I have to
18 correct you on fact. She wasn't hired for kindergarten
19 teacher at Cochran Elementary School, she was hired as
20 social studies teacher at Meadville Middle School. She bid
21 into a position at Cochran Elementary School in
22 kindergarten and at the time --

23 Q. You said it was a mistake?

24 A. Well, mistake on your statement.

25 Q. Here? On here? This is where I get my statement

1 from, Exhibit 28. It shows Cochranon, she was hired at
2 Cochranon. And you will notice --

3 A. She was new at Cochranon.

4 Q. And also here that she is related to Shawn, that
5 they're -- Read that. That's 29.

6 A. Right, okay.

7 Q. I'm mistaken you're saying?

8 A. She was new at Cochranon Elementary. She wasn't
9 a new employee within the district is what I'm saying. We
10 didn't hire her -- We didn't hire her for the kindergarten
11 position --

12 Q. But if it caption is 58 new teachers and she was
13 included --

14 MR. KUHAR: That's his answer.

15 A. That's my response. You can argue all you want,
16 but I'm telling you that's a fact. That's a fact, we hired
17 her as a social studies teacher at the Meadville Middle
18 School the year before that. She bid into that position and
19 then I guess she was put --

20 Q. She was transferred?

21 A. She transferred.

22 Q. To Cochranon?

23 A. Yeah, which is contractual and we have nothing to
24 do with. And at the time her husband was not an
25 administrator.

1 BERNARD WAGNER: He was a teacher.

2 A. And within this nepotism it says administrative
3 staff or school board --

4 Q. But it says teachers also, doesn't it?

5 A. I don't know if it says teachers.

6 Q. Teacher. Look at the definition of nepotism,
7 it's inclusive of teacher. I thought it was. The
8 definition of nepotism.

9 MR. KUHAR: Where does it say teachers? Where
10 does it say teachers? It's your question, you
11 wanted him to look at the part that says
12 teachers.

13 Q. Well, look at -- It's blood or family. That's
14 the definition, by blood of family, blood or marriage. I
15 should say relationships.

16 MR. KUHAR: It has a long list the of things,
17 administrator, principals . . . And do we see
18 teachers? No, we don't.

19 Q. But here (indicating), it shows here and I'm
20 showing this to you that he became -- He's an Assistant
21 Principal, Assistant Principal's position there. That's
22 what it says?

23 A. That's correct.

24 Q. Right there (indicating)?

25 A. I'm not arguing that point. What I'm arguing is

1 when we hired her her husband was not a principal'.

2 MR. KUHAR: You got that? This is the answer to
3 your question.

4 A. You need to listen, please.

5 Q. In --

6 A. He wasn't a principal when we hired her.

7 Q. He was a teacher at the time you say?

8 A. Correct.

9 Q. And what about then on, continuing on page three,
10 the last paragraph, all right, family relationships?

11 MR. KUHAR: What about it?

12 MR. NICHOLS: Yeah.

13 MR. KUHAR: What's the question?

14 Q. Doesn't that also -- Doesn't that -- The policy
15 apply to these incestuous family relationships?

16 MR. KUHAR: I don't know what you're talking
17 about. Incestuous? I don't know where that word
18 comes in.

19 MR. NICHOLS: What?

20 MR. KUHAR: I don't understand the question.
21 You've asked him 20 questions. He has given his
22 testimony.

23 MR. NICHOLS: All right, Exhibit 29 speaks for
24 itself, and 28 of course is included.

25 MR. NICHOLS: All right, exhibit 30.

1 (Off-the-record discussion.)

2 BY MR. NICHOLS:

3 Q. I also understand there is a relationship between
4 Brian Mahoney and Mr. Stanton?

5 A. That's correct.

6 Q. At the time he was hired?

7 A. That's correct.

8 Q. It was son-in-law relationship?

9 A. Son-in-law.

10 Q. Right?

11 A. That's right.

12 Q. That relationship is obviously not acceptable,
13 unacceptable, isn't it, for purposes of the anti-nepotism
14 law?

15 A. That's correct.

16 Q. How was that addressed by the committee?

17 A. How was that addressed by the committee?

18 Q. Right.

19 A. I'm going to take responsibility for it.

20 Q. Uh-huh.

21 A. I was in this position for three or four months,
22 I was unaware of the policy at the time and the
23 administration, naturally the selection committee was
24 formulated and Mr. Stanton was part of that process. And
25 after we concluded I was made aware.

1 We had informed the board that prior to that, prior to
2 the hiring that, you know, this was a policy that we needed
3 -- we should have had a board member present and we didn't,
4 and it was explained to them.

5 And it was for a special ed position, it wasn't for an
6 elementary ed position. And --

7 Q. What period are we talking about, Mr. Heller?

8 A. We're talking about --

9 Q. You said four months after you were hired?

10 A. It was June of 2002.

11 Q. Okay.

12 A. So we're aware of it now.

13 Q. Okay. This was brought to the attention of the
14 board?

15 A. Yeah, yes, it was.

16 Q. Subsequently?

17 A. Excuse me?

18 Q. Subsequent, after it came -- You brought it to
19 the attention of the board, you brought it to the attention
20 of the board?

21 A. Yes.

22 Q. In concert, did the board set in bank or was the
23 board together or was that individually?

24 A. I think we talked to them in an executive
25 sessions.

1 Q. Do you recall -- I know this is stepping back, do
2 you recall what if anything the board did, you know, once
3 you brought that to their attention?

4 MR. KUHAR: He already testified that they made
5 the hire.

6 Q. The hiring hadn't been made I understand, right?

7 MR. KUHAR: They advised -- He advised the board
8 prior to the hire.

9 A. Yeah.

10 Q. And the board hired him, that's the action it
11 took?

12 I thought you said it was a snafu on your part, on the
13 part of the committee? I thought you said it was a snafu
14 because it --

15 MR. KUHAR: He didn't use that word, but
16 essentially he said, yeah, they made a mistake
17 and told the board will about it and the board
18 hired him anyway.

19 Q. And the mistake was?

20 MR. KUHAR: Tell him again.

21 A. That we didn't include a board member.

22 Q. Because there requires a vote, right?

23 MR. KUHAR: If a vote happened.

24 A. If a vote happened, it requires participation of
25 a board member involved in the interview process.

1 Q. Okay. Now tell me, because as I read the policy
2 there, this anti-nepotism policy in this application, at the
3 personnel committee level, when the person is screened or
4 interviewed there's a board member who sits you say, right?

5 A. Yeah.

6 Q. Now does the board member have a vote at that
7 level or does the board member vote on that issue when --
8 when it comes before the board, when he or she sits with the
9 board?

10 A. Are you talking about when we have to be aware of
11 the anti-nepotism?

12 Q. Right, right. That's right.

13 A. I haven't experienced that so I -- The board
14 member would be a part of the process.

15 Q. At that time, level, the personnel committee?

16 A. No, at the interviewing committee.

17 Q. Interviewing committee?

18 A. Yes.

19 Q. And the vote, have a right to vote, too?

20 A. Give their opinion anyway.

21 Q. Well, the policy speaks of voting --

22 A. Vote at the board level.

23 Q. What?

24 A. They vote at the board level

25 MR. KUHAR: The policy says the board has to vote

1 to hire anybody.

2 MR. NICHOLS: Yeah.

3 MR. KUHAR: There's no testimony so far that the
4 personnel committee votes. There's no testimony
5 that anybody votes. There's no testimony that
6 anybody on the personnel committee votes

7 Q. But trying to understanding that, you stated
8 about the snafu -- And you have stated of the policy shortly
9 after you here -- here you stepped up to the plate for that
10 snafu shortly after you came into this position?

11 A. Correct, I made a mistake, right.

12 Q. All right, Exhibit 30. Exhibit 30. Now Exhibit
13 30 --

14 MR. KUHAR: It's her statement.

15 MR. NICHOLS: Yeah.

16 MR. KUHAR: I mean, I'll give him one, I'll give
17 him this one.

18 MR. NICHOLS: No, but -- Wait a minute, there's
19 an attachment here. Here it is. Here it is, I'm
20 sorry.

21 (Heller Deposition Exhibit 30 was marked.)

22 Q. Mr. Heller, Exhibit 30 is the affidavit by Miss
23 Wagner and it speaks to this, that she -- this occurred
24 after the lawsuit was filed, September, 2004. It was filed
25 against the school district and she went to Miss Darling and

1 asked her to apply for a position. And Miss Darling told
2 her she could not apply to the position because of the fact
3 that she had brought a lawsuit against the school district.
4 You don't agree with that, do you?

5 A. I think you know how I feel about that. I
6 explained to you that that -- No, I know nothing about that
7 nor do I agree with that.

8 Q. You don't agree with what Miss Darling instructed
9 -- told -- said to Miss Wagner, do you? You don't agree
10 with that, that she couldn't apply for --

11 A. No, I don't agree with that.

12 Q. You don't agree with that, do you?

13 A. No.

14 MR. NICHOLS: That's Exhibit 30. And I'm adding
15 31. Exhibit 31 is to be read in conjunction --
16 in conjunction with that because Mr. Kuhar has
17 corrected, the letter of Mr. Kuhar to me dated
18 July 20th, 2005 indicating that in his earlier
19 communication there was a mistake and he wanted
20 to set the record straight. Which he seeks to do
21 here, that Brenda Schoonover, the then principal
22 of the secondary elementary and Miss Darling,
23 then principal of Cochran Elementary, along
24 with her, was then included in the defendants
25 responses as I understand it in the context of

1 having had some kind of involvement in the hiring
2 or decision not to hire Miss Wagner.

3 Mr. Kuhar, am I stating your statement
4 correctly?

5 MR. KUHAR: I'm not being deposed.

6 MR. NICHOLS: Okay. This is Exhibit 30.

7 MR. KUHAR: Thirty-one.

8 MR. NICHOLS: Thirty-one, okay.

9 (Heller Deposition Exhibit 31 was marked.)

10 MR. KUHAR: Mr. Nichols, after this one are you
11 going to be done because we need to break really
12 at four.

13 MR. NICHOLS: Let's take a break.

14 MR. KUHAR: No, we need to take a break for the
15 day at four.

16 MR. NICHOLS: At four?

17 MR. KUHAR: Yeah, and I can --

18 MR. NICHOLS: Thirty-one, okay.

19 MR. KUHAR: I can get my questions completed in
20 about three minutes or I can save them until next
21 time.

22 MR. NICHOLS: Do you have a lot of questions?

23 MR. MC EWEN: I have a lot of questions. I would
24 probably prefer to do them the next time.

25 MR. NICHOLS: You want to stop at four?

1 MR. KUHAR: Do you feel you can finish in a few
2 minutes?

3 BERNARD WAGNER: We can't finish in five minutes

4 MR. NICHOLS: We can't finish in five minutes.

5 MR. KUHAR: Do you want to stop now?

6 MR. NICHOLS: We can stop now.

7 MR. KUHAR: You want to note that we're concluded
8 for the day?

9 MR. NICHOLS: Yeah, it is approximately now 3:55
10 p.m., September 27th, 2005.

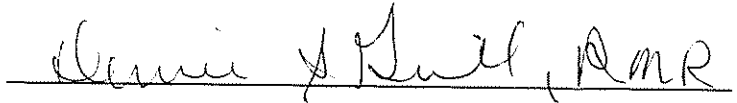
11 MR. KUHAR: Okay.

12 MR. NICHOLS: With the understanding and the
13 concurrence of all parties here, including
14 counsel, we have decided to go off the --
15 conclude and go off the record at this time.

16 (At 3:55 p.m., the deposition was concluded.)
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C E R T I F I C A T I O N

I, Denice A. Grill, RMR, a Court Reporter and
Notary Public in and for the Commonwealth of Pennsylvania,
do hereby certify that the foregoing is a true and accurate
transcript of my stenographic notes in the above-captioned
matter.

A handwritten signature in cursive script, reading "Denice A. Grill, RMR", is written over a horizontal line.

Denice A. Grill, RMR
Registered Merit Reporter

DATED: 10-11-05

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

ROWENA WAGNER)
Plaintiff)
vs.) NO. 04-264 Erie
CRAWFORD CENTRAL SCHOOL)
DISTRICT, et al)
Defendants.)

Deposition of CHARLES HELLER, taken on Thursday,
October 20, 2005, at the Crawford Central School
District, 11280 Mercer Pike, Meadville, Pennsylvania,
commencing at 9:00 a.m., before Linda K. Rogers,
Shorthand Reporter and Commissioner of Deeds in the
Commonwealth of Pennsylvania.

For the Plaintiff:

Caleb L. Nichols, Esquire
Law Office of Caleb Nichols
P.O. Box 1585
Erie, Pennsylvania 16507

For the Defendant Crawford County School District:

Mark J. Kuhar, Esquire
Knox McLaughlin Gornall & Sennett
120 West Tenth Street
Erie, Pennsylvania 16501

For the Defendant PSEA:

Richard S. McEwen, Esquire
4250 Route 6N
Edinboro, Pennsylvania 16412

* * *

1 C H A R L E S H E L L E R, having been
2 previously duly sworn, testified as follows:

3
4 MR. NICHOLS: Mr. Heller, it's approximately 9:15.
5 The date is October 20, 2005, and we are resuming
6 the deposition of Mr. Charles Heller, III.

7 Mr. Heller, you are already under oath, so we
8 can just continue with the questioning where we
9 left off from.

10
11 DIRECT EXAMINATION CONT'D

12 BY MR. NICHOLS:

13
14 Q. I believe that the point of departure where we
15 stopped dealt with what I have labeled as Exhibit 1. I am
16 not sure whether this was put into the record or not. What
17 it is is a batch of employment interview analyses of
18 candidates for a teacher position in 2004.

19 Ms. Wagner was an applicant in that pool of
20 candidates. These were provided by Mr. Kuhar, on the
21 opposite team, which I issued. The names of these
22 individuals are all here on the interview analyses. I would
23 just -- I don't think they have been made a part of the
24 record.

25 MR. NICHOLS: I'd ask you mark these.

1 (EX. 32 - INTERVIEW ANALYSES,
2 marked for identification.)

3 Q. Mr. Heller, in referring to Exhibit 32 I reviewed
4 those very closely and I did not see any classroom
5 observation summary results. I do recall what you said in
6 my earlier question that you returned those, you did not
7 maintain them as a part of the personnel files. You
8 returned them to the applicants or as I read the transcript,
9 I believe Mr. Kuhar said on some occasions they were
10 discarded.

11 A. Um-hmm.

12 Q. With respect to these batches of applications, the
13 interview analyses, what would be the case? What happened
14 to the observation results, summary results, were they all
15 returned to the applicants?

16 A. I think that, best of my memory, some of them were
17 returned and if we do not have them on file then they were
18 discarded.

19 Q. You made the point earlier that they were not
20 maintained as a part of the personnel file of the
21 applicants; is that correct?

22 A. I believe most of them aren't, that's correct.

23 Q. These would be maintained -- the ones that you did
24 keep, how would you have maintained those?

25 A. I'm not sure of your question. Can you clarify

1 that, the ones that we have maintained?

2 Q. Okay. Except the ones that you returned, of
3 course, as I understand you returned to the applicants, and
4 then the ones that you discarded, they were physically
5 disposed of, right?

6 A. Um-hmm.

7 Q. Were there others that you maintain in some file
8 other than the personnel file of the applicants?

9 A. I do not have any in any file that I can
10 recollect.

11 MR. KUHAR: And to be clear, you're asking about
12 observation reports for the people who are in --

13 MR. NICHOLS: That's right.

14 MR. KUHAR: -- Exhibit 32. Which, if you need to,
15 you certainly can look at that to see who is in
16 there. It's up to you if you recall it from
17 before. You can flip through them if you want to
18 see who the names are. Right, he can look through
19 them?

20 MR. NICHOLS: Sure.

21 Q. To help you, this is a list of the names of the
22 individuals that the applications appear.

23 MR. KUHAR: Let's make that list part of the
24 exhibit then too if we are going to use that in
25 lieu of him flipping through it. Make a copy if

1 we need to.

2 A. I don't recall that we have any observations on
3 any of these people in their personnel file that are on this
4 list.

5 Q. Can you testify today whether those observation
6 summaries were prepared for each of the individuals whose
7 name is shown in Exhibit 32?

8 A. I can testify that these people have been observed
9 in some capacity by some administrator who is made up of the
10 selection committee, that's all I can testify.

11 Q. But would they have prepared in each case, in each
12 instance, a written observation summary for each individual?

13 A. I can't say for certain that they all have been,
14 no, not a formal observation summary.

15 Q. Okay.

16 MR. NICHOLS: I ask that this be marked Exhibit
17 33.

18 (EX. 33 - LIST,
19 marked for identification.)

20 Q. Mr. Heller, I'll show it to you, Exhibit 33. When
21 you prepared that and submitted it to Mr. Kuhar, in turn
22 Mr. Kuhar submitted it to me, is that -- that's not a
23 conclusive list of all the hirings is it? I notice you
24 indicated that it showed hirings.

25 A. That's a conclusive list of the people that were

1 hired to assume elementary education, elementary ed teaching
2 assignments, yes.

3 Q. Would that list also include individuals who were
4 hired as long-term substitutes?

5 A. That doesn't include the long-term substitutes.

6 Q. Nor does it include those who were transferred,
7 moved to different positions already in the system, they
8 transferred to new positions, right?

9 A. That's correct. When you say transfer, they
10 transferred on their own, their ability to be able to
11 transfer through the bargaining unit agreement.

12 Q. Right.

13 A. We don't have anything to do with that.

14 Q. I understand. I understand. A transfer, what you
15 say, a teacher who is already in the system and transfers to
16 one position to another, that is not considered a new hire;
17 is that right?

18 A. That's correct.

19 Q. Therefore, that would not be shown on that list,
20 right?

21 A. That's correct.

22 Q. Are there other instances with which applicants,
23 teachers I'm referring to, enter the system and would not
24 have been accounted for on this list?

25 A. Would you repeat that question?

1 Q. Are there other means by which teachers have
2 entered the system, become teachers in the Crawford Central
3 School District and would not be shown here? I just noted
4 two members. One is they already, by transfer, that's not
5 considered hiring as you report here. The other would be
6 long-term substitutes, they would not be shown here as a new
7 hire?

8 A. Right.

9 Q. I'm asking, are there other -- what about teachers
10 who operate under emergency permits, they would not be shown
11 on this, would they?

12 A. No, no.

13 Q. I would like to step back to January 2003. I
14 understand -- I should ask you: Did you attend a meeting
15 with Bernard and Fred Wagner? Do you recall ever doing
16 that?

17 A. I recall being in a meeting but I don't recall
18 when it was, but I remember being in a meeting with Bernard
19 and Fred Wagner, yes.

20 Q. What was the purpose of the meeting?

21 A. I think that both Mr. Wagners wanted to talk with
22 Mr. Dolecki and myself about the employment of Bernie's wife
23 Rowena.

24 Q. How long did the meeting last?

25 A. I don't remember.

1 Q. You recall specifically Mr. Wagner's concern that
2 he expressed?

3 A. Not specifically I can't, you know, quote the
4 concerns specifically.

5 Q. During the course of the meeting do you recall
6 having heard Mr. Wagner refer to remarks that were
7 attributed to George Wright? Specifically the remarks were,
8 quote, and this is Mr. Wright speaking to Mr. Wagner, said,
9 Bernie, what you have to realize is that generally speaking
10 black and brown's are not as smart as white applicants,
11 close quotes. Do you recall --

12 A. I remember --

13 Q. -- that statement, having Mr. Wagner having made
14 that statement during the course of your discussion with him
15 in the presence of his brother Fred Wagner?

16 A. I remember Mr. Bernie Wagner making a remark like
17 that. I don't remember if it was at that meeting or some
18 other time we had a conversation, but I remember him making
19 that remark at some point.

20 Q. And having heard that remark having been made by
21 Mr. Wagner, attributed to Mr. Wright, George Wright, did you
22 express any view either agree or disagree with the remarks
23 attributed to Mr. Wright?

24 A. Are you asking me if I agreed with Bernie that
25 Mr. Wright made that statement?

1 Q. No. I'm asking you: Did you agree or disagree
2 with the remarks that were made by Mr. Wright?

3 A. What you're asking me, the alleged remarks by
4 Mr. Wright, do I agree with those alleged remarks?

5 Q. That's right.

6 A. I don't agree with those alleged remarks in any
7 way.

8 Q. Do you know what Mr. Wright was referring to? You
9 say you heard the remarks, do you know --

10 A. I didn't hear the remarks from Mr. Wright.

11 Q. I understand. Mr. Wagner was repeating the
12 remarks which were made by Mr. Wright to him during the
13 course of a telephone conversation. I'm asking, do you know
14 or would you have any idea what was the source of his
15 authority for those remarks?

16 MR. KUHAR: I object to the question. I think
17 it's vague. If you want to try to answer it, you
18 can. Specifically the use of the word authority.

19 A. I wasn't there.

20 Q. You were not there.

21 A. I wasn't part of the conversation.

22 Q. Okay. Moving forward, you know Lee McFerren,
23 don't you?

24 A. Yes, I do.

25 Q. He is a teacher here in the school district?

1 A. When I came to Crawford Central School District in
2 2002, he was a teacher in this school district.

3 Q. Social studies teacher?

4 A. No. He was an elementary teacher in the sixth
5 grade when I first came here in February of 2002.

6 Q. Did he also work with you, perform duties for you
7 or tasks, like recruitment?

8 A. Lee went on a -- I guess you could call it
9 recruitment. He went on, what do you want to say, went to
10 Edinboro University on a teacher recruitment day, yes.

11 Q. And the purpose was to recruit -- what type of
12 personnel were you seeking to recruit?

13 A. Perspective applicants, teaching applicants for
14 the Crawford Central School District for all positions K to
15 12, all different types of certifications.

16 Q. With the emphasis on recruiting minority teachers?

17 A. I would say that was part of the reason for Lee
18 going, yes. I don't normally go by myself when I go, when I
19 attend these.

20 Q. How about professional staff?

21 A. Excuse me?

22 Q. Professional staff as well, recruitment of
23 professional staff?

24 A. Yeah, that was the only purpose, professional
25 staff recruitment.

1 Q. But when I say professional staff, I'm also
2 including teaching staff.

3 A. We consider the teaching staff as professional
4 staff.

5 Q. Right. And he went, accompanied you on that trip?

6 A. He accompanied me on that trip, yes.

7 Q. Was that the first occasion he had gone with you
8 recruiting?

9 A. First and only.

10 Q. First and only?

11 A. Yes.

12 Q. Tell me what would be the nature of the
13 presentation you would make or you made to applicants?

14 A. Well, normal procedure by the school districts
15 that attend the job fairs are that there are tables set up
16 by the host university and they have, you know, we have to
17 sign up prior to the job fair and then the tables are
18 listed.

19 There are many different school districts that
20 attend and they had a table there that says Crawford Central
21 School District, Millcreek School District. There's school
22 districts that attend from out of state, Virginia, North
23 Carolina, South Carolina, so forth.

24 What we try to do is we take applications,
25 perspective candidates. We try to post projected vacancies

1 that we may have in the district at that time, usually it's
2 in the springtime, early spring is when these fairs are held
3 so we're not exactly sure at that point what vacancies we
4 may have, how many vacancies in that subject area we may
5 have. So, you know, we take -- usually take a resume or
6 names of people who have an interest in our district. We
7 encourage them to submit an application to us then once they
8 have their portfolio complete.

9 Q. Did you receive applications?

10 A. We received applications based on job fairs, yes.

11 Q. On that particular job fair?

12 A. Most likely.

13 Q. Did you extend job offers to any of the applicants
14 from that job fair?

15 A. We may have, I don't know that. I can't remember,
16 to be honest with you. I usually go to the job fair every
17 spring and we may have, we may not have.

18 Q. You didn't follow up on how many applications you
19 received from that particular --

20 A. We received numerous applications from candidates
21 throughout the State of Pennsylvania in all subject areas,
22 we have many of them. We have different positions that
23 require different certifications. I don't personally look
24 at the applications when they come in immediately.

25 Q. Whose job would that be?

1 A. Normally what happens is they are sent to our
2 office. Our secretary, my secretary, puts them in the
3 application file according to their certification.

4 Q. Did Mr. McFerren have further involvement in the
5 recruitment efforts after this particular fair?

6 A. No. I don't think Mr. McFerren was around long
7 after he went to that fair. He left our district shortly
8 after that.

9 Q. Did Mr. McFerren during the course of his
10 employment here with the district apply for a promotion or a
11 position other than what he had?

12 A. When I came here, Mr. McFerren was a sixth grade
13 teacher at East End Elementary School. At the time through
14 up until, I think June of 2005 you could hold a middle
15 school core subject teaching position with an elementary
16 certification because at the time the certifications were K
17 to eight. Mr. McFerren bid into a vacancy at the middle
18 school, and he was a social studies teacher. He bid into a
19 social studies position at the middle school. I believe
20 that was shortly after I came here. Probably I am thinking
21 he probably bid into that position in the spring of 2003,
22 bid into -- and he was in that position at the middle school
23 in the 2003-2004 school year as a social studies teacher,
24 eighth grade middle school. And at that time Mr. McFerren
25 was completing his administrative certification to become a

1 principal. And he had completed his internship, I'm not
2 sure whether it was in the fall or the springtime of that
3 year at the middle school.

4 Q. So he got the position you're saying?

5 A. He bid into the eighth grade position.

6 Q. He didn't get the position?

7 A. He got it, yeah. He got the eighth grade position
8 because he had seniority and it was awarded to him, yes.

9 Q. Was there any occasion he came to you and
10 indicated that he felt he had applied for some position and
11 did not get it and felt he had been mistreated?

12 A. Well, we had some administrative positions that
13 were interim positions, I guess you could say, at the time.
14 We had one principal's position that was an interim
15 position.

16 Q. Where was that?

17 A. That was at Meadville Area Senior High School.

18 Q. He applied for that, that position?

19 A. I think he sent a letter of interest, I believe.

20 Q. He did not get it, though, did he?

21 A. No.

22 Q. As a consequence of that did he come to you at any
23 subsequent time and say he felt mistreated, that he was
24 not -- in terms of his application for that position should
25 have got the job and did not get it?

1 A. I think what had happened is that Mr. McFerren had
2 voiced his concern that he was not considered for that
3 interim position at MASH, and had expressed that concern and
4 we became aware of it. And I believe Mr. Dolecki had
5 contacted me personally to come in and speak with
6 Mr. Dolecki and myself.

7 Q. So he came in and talked to you-all?

8 A. He came in and talked to Mr. Dolecki, but it
9 was -- the meeting happened because Mr. Dolecki initiated
10 it, I believe is what happened.

11 Q. May I ask you what was the nature of the
12 discussion when he met with you and Mr. Dolecki?

13 A. I can't remember all the details. Lee had
14 expressed his concerns that he was not considered for that
15 position and was upset.

16 Q. He was upset?

17 A. Yes.

18 Q. What was your reaction and Mr. Dolecki's reaction
19 to his being upset?

20 A. I believe, first of all, that we sat there and we
21 listened to Lee, what he had to say. It was in
22 Mr. Dolecki's office. I can't remember exactly what I said,
23 I think Mr. Dolecki did most of the conversation. As far as
24 coming from the school district it came from Mr. Dolecki.
25 That one of the things that was conveyed to Lee, I am not

1 sure whether Mr. Dolecki said it or I said it, was that he
2 was still in our minds a consideration for a position in the
3 Crawford Central School District, and that this was not a
4 permanent position and there were going to be other
5 positions.

6 Q. What did he say?

7 A. And he wasn't being ruled out as an administrator
8 in Crawford Central School District.

9 MR. KUHAR: You said he was or wasn't?

10 THE WITNESS: He was not being ruled out.

11 A. I don't remember what he said.

12 Q. Did he leave shortly thereafter, did he leave the
13 school district shortly thereafter?

14 A. Lee was offered a position as an elementary
15 principal at Franklin shortly -- yeah, very shortly after.
16 I believe, don't quote me on this, but we had the
17 conversation in the summertime, but he accepted the position
18 at Franklin. He spent one day here, it was an in-service
19 day of that following year. It would have been the --
20 probably he spent one day in 2003-2004 school year maybe.
21 I'm not sure, but he spent one day and then -- yeah, shortly
22 thereafter, I can't give you the details, specific details.

23 Q. In leaving did he indicate that -- that was a part
24 of the reason why he was leaving because he didn't get the
25 job? Did he make that known to you and Mr. Dolecki?

1 A. I don't remember Lee saying he is leaving here --
2 he is leaving here just because he didn't receive that -- or
3 wasn't offered that interim position at MASH, no. I don't
4 remember him saying that. He left here because he had the
5 goal of becoming an administrator, and the opportunity was
6 presented to him at Franklin and he wanted to take advantage
7 of it.

8 Q. And that opportunity was not available to him here
9 at Crawford Central School District?

10 A. At that time we didn't have a vacancy, no.

11 Q. Did he also seek a deanship here in this school
12 district, dean of students?

13 A. We had a position available for one year at
14 Cochran Junior-Senior High School that we were looking
15 at. It was a vacant position that we were looking for a
16 combination of athletic director and dean of students.

17 Q. He applied for that also?

18 A. I think he submitted a letter of interest to that,
19 yes, I believe he did.

20 Q. But he obviously did not get that job because he
21 left?

22 A. Yes.

23 Q. That's correct?

24 A. Yeah, he left.

25 Q. Was his application --

1 A. I would rather say that he accepted another job in
2 another district as an administrator.

3 Q. But his application for the deanship was rejected,
4 right?

5 A. We offered that position to another person, yes.

6 Q. Now, you mentioned and there was a Meadville
7 Senior High School, I believe, position he had applied for
8 also and someone else got that job?

9 A. Correct.

10 Q. Who was that person?

11 A. Pat Dudenhoefer.

12 Q. Mr. Dudenhoefer, okay. Mr. McFerren is an
13 African-American?

14 A. That's correct.

15 Q. Did you know him prior to his coming to work for
16 the school district?

17 A. Prior to, not really. Personally, no. I knew of
18 him.

19 Q. How did he come into the system, do you know?

20 A. Actually I knew Lee, and I talked to Lee probably
21 prior to me having a job at Crawford Central School
22 District. Our connection was through -- he was an assistant
23 wrestling coach at Meadville Area Senior High School and one
24 of my -- it wasn't a volunteer, but one of my
25 responsibilities in the past was that I was director of

1 district ten wrestling tournament in Meadville. He was
2 coaching at Meadville at the time and I had an opportunity
3 to talk with Lee once in a while. But as far as knowing
4 him, I didn't know him very well, no, at that time. And I
5 wasn't here when Lee accepted a teaching position in the
6 school district. I wouldn't know what date that would have
7 been when he came here.

8 Q. You came in 2002.

9 A. He was here before I came here.

10 Q. You also mentioned that there was a time in which
11 a teacher having an elementary certification was allowed to
12 teach at middle school?

13 A. Um-hmm.

14 Q. Is that correct?

15 A. That's correct.

16 Q. When did that exist, what period are we talking
17 about?

18 A. Up through 2005, I think was the cutoff.

19 Q. What official authority allowed that, do you know?

20 A. Who made those decisions?

21 Q. Right, allowed that.

22 A. Pennsylvania Department of Education.

23 Q. Do you -- if I were to ask you for a citation,
24 could you be responsive? What was the nature of it, was it
25 by the secretary of the department of education or was it by

1 some other kind of promulgation?

2 A. It probably came about through -- probably
3 originated, and I don't know this for a fact, but No Child
4 Left Behind, came from there and then it came to the
5 Department of Pennsylvania -- Pennsylvania Department of
6 Education and from there there was a committee that
7 established this on certifications.

8 Q. No Child Left Behind, you say?

9 A. Could have been. I am just editorializing now. I
10 don't know where it came from. It was an edict delivered by
11 the Department of -- Pennsylvania Department of Education.

12 Q. It was in effect until 2005.

13 A. Where people who had an elementary certificate, K
14 to eight, could teach in a middle school setting in a core
15 subject area.

16 Q. With an elementary certification?

17 A. That's correct.

18 Q. Only?

19 A. Only, yes, like math, science, social studies, I
20 think computer science fell under that, yes.

21 Q. It was discontinued in 2005?

22 A. Yeah.

23 Q. And the authority which brought the cessation to
24 that policy, do you know what authority?

25 A. Following, like I said, it was edict from

1 Pennsylvania Department of Education. I don't know how they
2 came about, I'm not part of that. We just have to follow
3 those mandates.

4 MR. KUHAR: And the PDE allowed it and then they
5 stopped allowing it?

6 A. Well, up until that point, yeah. That's when it
7 was over. We couldn't use those K to eight certificates.
8 They weren't considered K to eight, they were considered K
9 to six. And then there were also other little twists in it
10 like if, for example, Cochranon Junior-Senior High School
11 they are a seven to twelve building. If you -- you could
12 not teach in a core area permanently with an elementary
13 certificate in a junior-senior high setting, seven and eight
14 setting, it had to in a middle school. Even though they had
15 specific teachers that might do seventh grade and only
16 eighth grade, it doesn't work that way. I don't know who
17 came up with it, but that's what we have to follow.

18 Q. Do you know David Dickson?

19 A. Yes, I know Dave Dickson.

20 Q. He was recently hired as a teacher in Cochranon
21 High School I understand.

22 A. That's correct.

23 Q. Did he also undergo interview and an observation
24 for this position?

25 A. Yes, he did.

1 Q. Do you know who conducted the classroom
2 observation?

3 A. I think that Mr. Higgins had observed him when he
4 was student teaching. I think that Mr. Morgan had,
5 Mr. Higgins, Mrs. Guldon, myself, and maybe Miss James.

6 MR. NICHOLS: I will ask to mark this, Exhibit 34.
7 (PLAINTIFF'S EX. 34 - DOCUMENT,
8 marked for identification.)

9 Q. Mr. Heller, I show you what has been marked
10 Exhibit 34. And looking at the last David Dickson and no
11 certification is shown for him.

12 A. He has a certification, technology education.

13 Q. So that's just an oversight in that the records
14 don't reflect that there is no certification shown?

15 A. All three of those gentlemen are, Christopher
16 Condon, Nicholas Krasa, Dave Dickson all had a certification
17 in technology education from California State University.

18 Q. I noted that he was hired May 23, 2005. Did he
19 have the certification at that time, do you know?

20 A. He had fulfilled all the requirements for the
21 certification at that time.

22 Q. Did he have a certification in hand?

23 A. He had fulfilled all the requirements. We had a
24 letter from California State University that he had
25 fulfilled all the requirements. He was hired on that date

1 but his starting date for that position was the first day of
2 the school, 2005-2006 school year.

3 MR. KUHAR: Do you know when he actually got his
4 certificate?

5 THE WITNESS: I don't know when it came in the
6 mail, no.

7 Q. But we are talking about some day after May 23,
8 right --

9 A. Yeah.

10 Q. -- 2005. Some date after May 23rd, 2005?

11 A. Um-hmm.

12 Q. Is that correct?

13 A. Till he got his official certification from the
14 state, yes.

15 Q. Did he previously work for the school district
16 before he was employed full-time?

17 A. Not that I'm aware of.

18 Q. Do you know where -- did he come from outside of
19 the Cochran Central -- not Cochran, correction,
20 Crawford Central School district?

21 A. Does he live or does he come?

22 Q. At the time prior to his employment with the
23 school district, did he come from outside of the school
24 district?

25 A. Yeah, he was a contractor.

1 Q. He was a contractor?

2 A. Yes.

3 Q. In this area or outside of this area?

4 A. In this area.

5 Q. Did you know him personally --

6 A. The first time --

7 Q. -- before he started working?

8 A. The first time I ever met him was when he was
9 student teaching at Cochran Junior-Senior -- excuse me,
10 when he was student teaching at Meadville Area High School,
11 I think is the first time I ever met him. I may have met
12 him before that, I meet a lot of people. Did I know him,
13 no, not really.

14 Q. Okay. I want to direct your attention to Page 157
15 of your deposition -- transcript of your deposition. And on
16 Page 157 Mr. Kuhar speaks, Page 157. And he says in the
17 course of his statement, number two, his prior testimony,
18 referring to your testimony, was that she was interviewed,
19 referring to Miss Wagner, for 20 positions at one time in
20 the spring of 2004. How do you interview an applicant for
21 20 positions in the course of one day? How is that
22 accomplished?

23 A. Restate that question.

24 Q. I will let you read it, Page 157 of your
25 deposition.

1 A. What we do is we have an elementary education
2 teaching certificate qualifies you to teach K to six, okay.
3 We have six elementary schools within the Crawford Central
4 School District. And we have vacancies that could occur in
5 any one of those positions which they are qualified or
6 certified, better put certified, to teach in. And so we
7 conduct the process and from there as a vacancy occurs then
8 our committee appoints, and then actually we offer the
9 position to that selected candidate for any number of those
10 positions, yes, that is the way it is done.

11 Q. Now --

12 A. It's a broad field.

13 Q. How long does the interview last for any one
14 applicant?

15 A. Twenty minutes to a half hour.

16 Q. How many people would sit on the interview
17 committee?

18 A. We have eight total involved, if you're referring
19 to the elementary.

20 Q. Right.

21 A. Yeah.

22 Q. And each would have an opportunity to pose a
23 question to the applicant within the framework or span of 30
24 minutes you are telling me?

25 A. Yes, yes. For the 2000 when we interviewed for

1 those positions, I believe, I believe, that each candidate
2 went through two interviews and there were four people in
3 each committee and they went through one interview, and then
4 they would go through another interview. Each committee
5 member asked each candidate two questions.

6 Q. All of this was accomplished in 30 minutes?

7 A. Total between two interviews we had built in an
8 hour.

9 Q. Each of the --

10 A. Candidates.

11 Q. No, I'm referring to the members who sat in the
12 committee. You said there were eight of them, right?

13 A. Yeah. Four on one committee, four on the other.

14 Q. Each would pose two questions?

15 A. I believe that's the way it was.

16 Q. Sixteen questions?

17 A. Correct.

18 Q. Within the span of an hour?

19 A. That's correct.

20 Q. More recently -- we'll move to another matter --
21 more recently Mrs. Wagner has sent you copies of a letter
22 for a position, a vacancy in a fifth grade teaching position
23 in Cochran Elementary School. A letter dated
24 October 18th. Do you recall having received it?

25 A. Um-hmm.

1 Q. You did receive it?

2 A. Yeah.

3 MR. NICHOLS: Exhibit 35.

4 (PLAINTIFF'S EX. 35 - LETTER,

5 marked for identification.)

6 Q. You intend to give her application consideration
7 for this position?

8 A. It's already been filled. No, we don't. I have
9 no control over that because it was a position that someone
10 else bid into.

11 Q. Member of the union?

12 A. That's correct.

13 MR. KUHAR: Caleb, could we take a five-minute
14 break?

15 (Brief recess.)

16 MR. NICHOLS: Back on the record. It is 10:10
17 approximately, October 20th, 2005. Few more
18 questions, Mr. Heller, and then we will conclude
19 this with you.

20 BY MR. NICHOLS

21 Q. You maintain your office -- you maintain an
22 interoffice memorandum, don't you, as a form of
23 communication?

24 A. Yeah. Yes, I do.

25 Q. Do you know during the course of the last three or

1 four years that communications, interoffice memorandum, have
2 contained information relating to Mr. and Mrs. Wagner?

3 A. I am not sure what you are getting at here.

4 Q. As best as you can recall, do you know of any
5 communications contained in your interoffice memorandum,
6 that you have communicated with others by interoffice
7 memorandum, relating to Mr. Bernard Wagner and Mrs. Rowena
8 Wagner?

9 A. No.

10 MR. KUHAR: Objecting to the question as I think
11 it's vague. And I'll ask you, do you mean inter
12 or extra?

13 MR. NICHOLS: Inter, interoffice.

14 MR. KUHAR: If you want to try and answer that, go
15 ahead.

16 A. No, I don't recall any of that.

17 Q. Next question. With respect to the systems in
18 your office by which you maintain personnel data, could you
19 specify for the record what those systems are? Would that
20 include, for example, e-mail?

21 A. I have e-mail on my computer, yes.

22 Q. Did you have other electronic means of maintaining
23 personnel data other than e-mail?

24 A. I don't maintain personnel data with e-mail.

25 Q. How about transmitted data?

1 A. No, none.

2 Q. Give us a specification of other means of --
3 electronic means by which you maintain the personnel data
4 and/or transmit such data?

5 A. Maybe I'm not clear on the question you're asking.
6 We don't do anything at all electronically through personnel
7 data other than we can get like Act 34 clearances. I don't
8 know, that's all we can do.

9 Q. What would that consist of, the Act 34?

10 A. My secretary does that. She submits a name, I
11 think a Social Security number to get an Act 34, but
12 otherwise we don't do anything electronically. I've talked
13 to people about doing all of our total application process
14 over electronic -- electronically, but we are still paper.
15 We are all paper.

16 Q. You testified early on that, it may have been
17 Miss Good that testified -- that you suggested or instructed
18 Mrs. Wagner to go seek a job outside of Crawford Central
19 School District; is that correct?

20 A. I believe that's taken out of context.

21 Q. What would be the context in which -- your
22 understanding?

23 A. I know exactly what I said.

24 Q. State it for the record.

25 A. That's correct. In my conversation with

1 Mrs. Wagner, and Mrs. Good was also part of that
2 conversation, and she had asked about her chances of getting
3 in a position -- being offered a position in the school
4 district, I explained to her that these are the things that
5 we feel you need to do. And I also, like any other
6 perspective candidate seeking a teaching position, suggested
7 that it's not wise to keep all your eggs in one basket. You
8 need to submit applications elsewhere. I do that, and I
9 suggest that, I recommend that to everybody that is in the
10 area, that you need to take a look and submit applications.
11 Everybody has done that, I think. When I first was looking
12 for a teaching position, I did the same thing. I didn't
13 rely just on one district, I submitted applications all over
14 the place. That was the purpose behind there, there's no
15 suggestion that she had no chance of being offered a
16 position here, it's just that it's not a good idea just to
17 focus on one district, there are many districts. And I
18 think that most of our candidates follow that same procedure
19 as well.

20 Q. In the course of, I believe you testified after
21 the interview of 2004, your secretary, I believe you said
22 you were involved in suggesting to Mrs. Wagner that there
23 was some instructions or remedial material that she should
24 consult and this would enhance her opportunity for obtaining
25 the full-time position; is that correct?

1 A. I wouldn't call it remedial material. There was
2 some suggestions that were provided that would update her in
3 some areas that could help her in the future, that's it. It
4 wasn't remedial; I wouldn't say it was remedial.

5 Q. As I understand it there were only one or two
6 other people to whom you had made such suggestions; is that
7 correct?

8 A. I said that I have made those suggestions to
9 anybody that has made an appointment and has come into my
10 office and I had spoke with and they were asking more or
11 less, not necessarily in these words, what can I do to get a
12 job in this school district. And I said, these are our
13 standards and this is what you have to do to meet those
14 standards. And so anybody, like Mrs. Wagner, same thing was
15 shared with them. I wouldn't say one or two people.

16 Q. Do you know on how many occasions apart from
17 Mrs. Wagner you had made these suggestions?

18 A. I don't keep track of them but --

19 Q. Best estimate?

20 A. -- several.

21 Q. And did any of those people follow your
22 suggestions?

23 A. Yes.

24 Q. Did they get jobs?

25 A. Yes.

1 Q. They did?

2 A. Um-hmm, yes.

3 Q. What percentage of them got jobs?

4 A. I can't tell you the exact percentage because I
5 said I don't keep track of them, but some of them have. Not
6 all.

7 Q. And this course of instruction that you had
8 proposed, what specifically did that entail? I know you
9 alluded to it earlier but you were not specific, could you
10 be more specific?

11 A. Yeah. What we had suggested that -- and one of
12 the reasons why I suggest this is because it's very
13 accessible, it doesn't take a lot of work to get a hold of
14 the information, is to get on the PDE web site and pull off
15 the -- one of the PDE forms. It either could be 426, 427 or
16 428. And within those PDE forms there is four domains. I
17 think one of them is preparation and planning. The other
18 one is classroom environment, one is instructional delivery
19 and other one is professionalism. They have, I guess you
20 can call them rubrics. If you go through and familiarize
21 yourself with those rubrics, you would be very well prepared
22 in an interview process at Crawford Central School District
23 because much of it relates to the standards.

24 And the suggestion was to pull that off and go
25 through it and any bullet or rubric that you had questions

1 with, you know, call in, we will make an appointment and
2 Mrs. Good and I will sit down and we'll go over this with
3 you, and that's the extent of it.

4 There are some things on -- I can't remember
5 exactly -- but there are some things that can be discussed
6 with Mrs. Good on things like balanced literacy and that
7 kind of stuff. She has a large library that she lends out
8 materials, resource materials, all the time for teachers or
9 perspective teachers to keep themselves current in education
10 because education is changing rapidly, more so than it ever
11 has. So it's important that people stay current.

12 Q. So is it fair to say that this proposed course of
13 instructions of which you speak that that is not job-related
14 information but it relates to how one can better conduct an
15 interview or present him or herself during the course of an
16 interview; is that a fair characterization of the
17 instructions?

18 A. I would say it is the necessary knowledge that a
19 teacher has to have in order to be successful in the
20 classroom.

21 Q. The term role model is bootied about a lot in the
22 academic circles. You have heard it several times I'm sure.

23 A. Yes, I have.

24 Q. You have heard that?

25 A. Role model, sure.

1 Q. What do you consider the essential attributes or
2 characteristics or qualities that a teacher who aspires to
3 be a role model should have?

4 A. Basically somebody who has all the
5 characteristics, all the positive characteristics that
6 students would look up to.

7 Q. To look up to?

8 A. Yeah.

9 Q. To be specific, in terms of numeration of them,
10 what would you say in terms of one through five in
11 qualities?

12 A. I would say, number one, I think it has to be
13 someone that's genuine. Someone that is respectful.
14 Someone who has interest, caring and kind. That's five, I
15 believe. Not necessarily in that order but they are all
16 close.

17 Q. Um-hmm. That kind of person you would like to
18 interview, wouldn't you, for a job, wouldn't you? Wouldn't
19 you like to attract that style of person at Crawford Central
20 School District as a teacher?

21 A. Yes.

22 Q. Those qualities that you just specified you
23 wouldn't say -- would you say -- if I were to ask you and
24 reflected on Mrs. Wagner, you have seen her application many
25 times, her background, is she without any of those

1 qualities?

2 A. She has --

3 Q. Is she without any of those qualities?

4 A. Is she without any of those qualities?

5 Q. Um-hmm.

6 A. No.

7 Q. So logically speaking, why hasn't she been
8 extended the courtesy of interviews since 2004?

9 A. To my knowledge Mrs. Wagner has not made any
10 attempt to take advantage of the suggestions that we have
11 offered her on two separate occasions actually.

12 Q. Well, she has continued to submit letters, which I
13 just showed you, indicating her interest in positions,
14 right?

15 A. Yeah.

16 Q. And this has -- she had been persistent in
17 submitting these applications at least four years now; is
18 that correct?

19 A. Yes, that's correct.

20 Q. Okay.

21 (Discussion held off the record.)

22 MR. NICHOLS: All right. Mr. Heller, I don't have
23 anymore questions myself. I thank you for coming.

24 THE WITNESS: Thank you.

25 MR. NICHOLS: It's approximately 10:30.

1 THE COURT: I have a few questions.

2

3 CROSS-EXAMINATION

4 BY MR. McEWEN:

5

6 Q. In the course of your testimony you had mentioned
7 that some vacant positions are filled through the bidding
8 process. I just want to clarify, only certain teachers have
9 the right to bid into positions; isn't that true?

10 A. That's correct.

11 Q. And those individuals are the teachers who are
12 members of the bargaining unit; is that correct?

13 A. That's correct.

14 Q. Day-to-day substitute teachers are not part of the
15 bargaining unit, are they?

16 A. No.

17 Q. And before an individual is able to obtain these
18 bidding rights isn't it true that the person must be
19 selected by the district for employment and placed into one
20 those bargaining unit positions?

21 A. Correct.

22 Q. Does the association play any formal role in the
23 district's hiring process for the selection of new teachers
24 for newly vacant positions?

25 A. No.

1 Q. So, for example, earlier today you were shown
2 Exhibit 33, which was a list of elementary teachers that had
3 been hired over the last several years. Did the association
4 have any role in the selection of any of those individuals
5 for those positions?

6 A. No.

7 Q. You also described the interview committee that
8 the district utilizes in their selection process, you
9 indicated that there were at least eight people involved in
10 the elementary teacher selection process, none of these
11 eight committee members represent the association, do they?

12 A. No.

13 Q. They were all administrators?

14 A. All administrators.

15 Q. In your experience with the district, has the
16 association ever made any attempt to influence the
17 district's decision not to hire perspective teaching
18 candidates on the basis of their race, national origin or
19 gender?

20 A. No.

21 That's all I have thanks

22 MR. KUHAR: I just have a few.

23

24

25

CROSS-EXAMINATION

BY MR. KUHAR:

Q. Mr. Heller, do you know what a reasonable assurance letter is?

A. Yes.

Q. Do you recall being asked to look at an exhibit, which I think was Exhibit 5, which was a letter to Ms. Wagner at the end of the school year referencing the likelihood that she would be employed in the following school year?

A. Um-hmm.

Q. Was that a reasonable assurance letter?

A. That's reasonable assurance letter.

Q. Was she the only one that got that?

A. No, every substitute in the school district received one.

Q. At any point did you suggest that Ms. Wagner apply for employment in the district's Stars Program?

A. I had made that suggestion.

Q. When?

A. Summer -- the conversation that we had with Mrs. Good, Mrs. Wagner and myself.

Q. Was that one of the suggestions?

A. That was one of the suggestions.

1 Q. To make --

2 A. After school program actually, not necessarily the
3 Stars Program, after school program, tutoring programs.

4 Q. To make her a stronger candidate?

5 A. It would help to refine some of the areas that we
6 felt needed to be updated, yes.

7 Q. And describe the after school programs so we know
8 what we are talking about.

9 A. Okay. We have the Stars Program in the second
10 district elementary school, which is a program that there's
11 about 60 students and there's also teachers that work in
12 that building as well after school. And they work with
13 students who have a deficiency in math and reading. Many
14 times they can be good models for perspective teachers.

15 Q. Okay.

16 A. We encourage people to participate if they would
17 like, they do not have to, that's just one of the
18 recommendations that we make. We have people who express
19 interest in improving themselves professionally.

20 Q. Would they be shadowing a person or would that be
21 a paid position?

22 A. It would be a paid position.

23 Q. Would they be able to work side by side with an
24 experienced teacher?

25 A. Yes, yes.

1 Q. Do you know what the position would have paid?

2 A. It goes up every year, 19, 20 an hour.

3 Q. How many hours a week?

4 A. It depends. It depends on the number of people
5 who are interested, could be anywhere from three to maybe
6 fifteen.

7 Q. Did Ms. Wagner ever pursue that or any of the
8 after school programs?

9 A. Not to my knowledge.

10 Q. Do you recall being asked some questions about
11 whether the qualifications for regular full-time positions
12 are comparable to those for day to day and long-term sub
13 positions; do you recall being asked about that by
14 Mr. Nichols?

15 A. Um-hmm.

16 Q. And are all teachers, subs, long-term subs and
17 regular teachers, are they all required to have a
18 certificate --

19 A. Yes.

20 Q. -- of some type?

21 A. Some type.

22 Q. In accordance with PDE regs?

23 A. Yes.

24 Q. Is merely possessing a certificate from the PDE,
25 does that necessarily mean that a candidate meets the

1 standards for a full-time position in this district?

2 A. No.

3 Q. Can you explain what you mean?

4 A. Anybody who is on our substitute list must
5 maintain a teacher certification or have an approved
6 emergency certificate through the PDE, and that would
7 qualify you as a substitute teacher in the Crawford Central
8 School District. To be offered a permanent teaching
9 position you must have a Pennsylvania teaching certificate,
10 and you must demonstrate knowledge in specific areas within
11 the curriculum which would include standards, assessments,
12 classroom management, areas of -- which we talked about
13 earlier -- under professionalism.

14 Q. Let me give you a hypothetical. Let's say that
15 you have a 150 applications from certificated people, but
16 for one elementary position that is open. And let's say you
17 interviewed ten of them, and let's say that all ten of them
18 their interview suggest that they have some level of
19 knowledge about those things that you just mentioned but the
20 interviews indicate some have more than others, would you
21 randomly choose among them or would you choose the one that
22 basically was the strongest?

23 A. As a committee we would determine who the
24 strongest candidates are and offer them a position.

25 Q. What if some of the candidates who scored lower,

1 let's say in the bottom quarter, what if they interviewed
2 over and over and over again and each time that they did
3 that they continually ranked near the bottom of the list,
4 would the fact that they had interviewed over and over again
5 increase their standing for a full-time position?

6 A. No.

7 Q. Do you recall seeing Ms. Wagner after you and
8 Ms. Good spoke to her in the summer of '04?

9 A. Um-hmm, yes.

10 Q. Where was that and what do you recall of that?

11 A. I remember right before school started in the
12 summer of '04 Mrs. Wagner came into the office, I'm not sure
13 what reason she came into the office, but it was the first
14 time I had seen her since Mrs. Good, Mrs. Wagner and I had
15 met.

16 Q. What do you recall of that?

17 A. Well, I walked in my office, she was standing
18 behind the counter in my secretary's office area. I said
19 hello to her, and I just asked her if she was planning on
20 coming back in to discuss what we had talked about earlier.

21 Q. You're referencing the prior meeting that you
22 talked about in your depo?

23 A. Correct.

24 Q. How did she react?

25 A. She really didn't say much at all.

1 Q. Did she confirm that she was?

2 A. She didn't confirm either that she was or wasn't.

3 Q. Did she ever come back in to discuss those things?

4 A. No, she never came back in.

5 Q. Did she give you any reason to think that she had
6 done anything that had been suggested to her?

7 A. I didn't have any reason to suggest that she had
8 completed any suggestions, no.

9 Q. You had no reason to think that?

10 A. No.

11 MR. KUHAR: Thank you. I have no further
12 questions.

13

14 REDIRECT EXAMINATION

15 BY MR. NICHOLS:

16

17 Q. Mr. Heller, I do have one other question.

18 (EX. 36 - DOCUMENT,

19 marked for identification.)

20 Q. I forgot to document here Exhibit 36. I show you
21 this referring to Mr. John Stegkamper. What is not clear to
22 me, and maybe you can clarify it for me, under the sick
23 leave there.

24 A. Yeah.

25 Q. For June 30, 2003 is shown 22, that's 22 days, 22

1 hours; what is that?

2 A. Twenty-two days.

3 Q. Twenty-two days.

4 A. Yes.

5 Q. That would be reflective of the school year of
6 2002, slash, 2003 school year, wouldn't it?

7 A. Um-hmm.

8 Q. That he took 22 sick days during that school year?

9 A. No, that's how many he has remaining.

10 Q. Sick days remaining?

11 A. That's how many he has remaining.

12 Q. How many --

13 A. You get ten a year. He had 19 at the end of 2002
14 and then he was given -- you are supposed to get ten, I
15 believe. It should be 19 plus he may have had some -- yeah,
16 he did, 3 personal days. If you don't use them they turn
17 into sick days, so that comes out right.

18 Q. During that 2002, slash, 2003 school year he used
19 nine?

20 A. No, that's how many he had remaining.

21 Q. Oh, I thought here 22 that's remaining at the end
22 of the school year.

23 A. Yeah, see this is the end of the this year. This
24 is how many days he had remaining at the end of 2002, this
25 is how many sick days he had remaining at the end of 2003.

1 Q. They get 30 (sic) days sick leave per year?

2 A. They get ten sick days and three personal days.

3 The personal days at that time if you didn't use them, you
4 lose them. In other words they turn into sick days.

5 That's -- he had nine and then he had his three days would
6 have transferred over into sick days because these are the
7 personal emergency days he hadn't used because the end of
8 the year was over. So that makes 12 and then he got 10 more
9 sick days that following year and that gives him 22. So he
10 didn't use any in the 2002-2003 school year, he used no sick
11 days. He used personal days.

12 Q. Personal days.

13 A. That's it.

14 Q. And the vacation days, that would not be shown?

15 A. They don't get vacations. Teachers do not get
16 vacation days. I mean their vacation days are built in, you
17 know, around Easter, Christmas, summertime. They don't
18 consider them vacation days but they are days off, I guess
19 you would say. Administrators have vacation days.

20 MR. NICHOLS: Okay. All right. Thank you. We
21 can go off the record now. It's 10:40 a.m. We
22 are concluding the deposition of Mr. Heller.

23 MR. KUHAR: We will review.

24 MR. NICHOLS: We will take a short break.

25 (Examination concluded at 10:40 a.m.)

C E R T I F I C A T I O N

I, Linda K. Rogers, Shorthand Reporter and
Commissioner of Deeds in and for the Commonwealth of
Pennsylvania, do hereby certify that I recorded
stenographically the proceedings herein at the time and
place noted in the heading hereof, and that the foregoing is
an accurate and complete transcript of same to the best of
my knowledge and belief.

A handwritten signature in cursive script that reads "Linda K. Rogers". The signature is written in dark ink and is positioned above a horizontal line.

Linda K. Rogers

Dated: November 3, 2005

Linda K. Rogers
Commonwealth Of Pennsylvania
Commissioner Of Deeds
My Commission Expires 11/06

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